

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

**WALEED HAMED**, as the Executor of the Estate  
of MOHAMMAD HAMED,

*Plaintiff/Counterclaim Defendant,*

vs.

**FATHI YUSUF** and **UNITED CORPORATION**

*Defendants and Counterclaimants.*

vs.

**WALEED HAMED, WAHEED HAMED, MUFEEED  
HAMED, HISHAM HAMED, and PLESSEN  
ENTERPRISES, INC.,**

*Counterclaim Defendants,*

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**WALEED HAMED**, as the Executor of the Estate  
of MOHAMMAD HAMED, *Plaintiff,*

vs.

**UNITED CORPORATION**, *Defendant.*

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**WALEED HAMED**, as the Executor of the Estate  
of MOHAMMAD HAMED, *Plaintiff*

vs.

**FATHI YUSUF**, *Defendant.*

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**FATHI YUSUF**, *Plaintiff,*

vs.

**MOHAMMAD A. HAMED TRUST**, *Defendants.*

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**KAC357 Inc.**, *Plaintiff,*

vs.

**HAMED/YUSUF PARTNERSHIP**, *Defendant.*

**Case No.: SX-2012-CV-370**

**ACTION FOR DAMAGES,  
INJUNCTIVE RELIEF AND  
DECLARATORY RELIEF**

**JURY TRIAL DEMANDED**

Consolidated with

**Case No.: SX-2014-CV-287**

Consolidated with

**Case No.: SX-2014-CV-278**

Consolidated with

**Case No.: ST-17-CV-384**

Consolidated with

**Case No.: ST-18-CV-219**

**HAMED'S REPLY  
WITH REGARD TO HIS MOTION FOR PARTIAL SUMMARY JUDGMENT  
AS TO CLAIM H-142—THE HALF-ACRE ACCESS PARCEL AT TUTU  
[EXPEDITED DETERMINATION REQUESTED]**

## I. Introduction

### a. Brief Statement of the 'Original' Procedural Posture

In both their joint 2018 motion to strike this claim, and November 4, 2019 opposition to Hamed's motion to compel, United and Yusuf *repeatedly* represented to the Master, as *facts*, that (1) Yusuf's-United (not Fathi Yusuf) owns the Tutu parcel, and (2) it owns the parcel solely pursuant to the 2008 Deed. See, e.g., *Yusuf Reply*, March 20, 2018, at 3-4. **Exhibit 23**.

Yusuf agrees with Hamed's statement at page 3 of his Opposition that "[a]s of the date of entering this Plan, United Corporation owned a half acre plot on St. Thomas, Parcel No. 2-4, Remainder Estate Charlotte Amalie, **which it took title to on October 23, 2008**. See Exhibit 2." See Opposition at p. 3. . . .<sup>[1]</sup>

They filed their motion to strike H-142 solely on that basis and those facts—where their position was predicated exclusively on having record title pursuant to the *2008 Deed*.

To deal with the issues and facts in those prior papers, Hamed filed this motion for partial summary judgment based on the issue of record title. Hamed sought a limited holding—partial summary judgment that one 'version' of United has been in record title since October 23, 2008, and it is 'United as the Partnership Representative'—which holds title for the Partnership.

This is a normal, routine motion in RUPA claims where land was purchased solely with partnership funds and one partner seeks its return *to the partnership* from the other partner—who has, somehow, 'ended up with it' without paying a cent. (It happens more than one would guess.) After record title is 'so ordered' and the Partnership's ownership as of a known date is established, positions hostile to the Partnership's title can be heard pursuant to RUPA § 204(c). For Yusuf, that will be in opposition to Hamed's motion on the ownership of property at Tutu.<sup>2</sup>

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<sup>1</sup> (Emphasis in the original.) See also, November 4, 2019 *Opposition to the Motion to Compel as to H-142* (adopting the same language.) **Exhibit 23**.

<sup>2</sup> Thus, except for the effects of RUPA, this will be like any other quiet title suit regarding a subsequent oral contract asserted against record title. Yusuf will be able to brief this fully then.

On December 20<sup>th</sup>, the joint opposition was filed, conceding record title in its first 17 lines (on page 1 of 20) and agreeing that United is holding the property for the Partnership. That ends this issue and warrants entry of partial summary judgment as requested, acknowledging record title in the Partnership. As no deed or other document has been recorded since 2008 that interferes with that record title (**Exhibit 25**), **Hamed again asks the Master to enter partial summary judgment exactly as originally requested—that "the United that has been in record title since October 23, 2008 is 'United operating as the Partnership'."**

*b. Yusuf's New Procedural Posture*

After quickly conceding the original motion,<sup>3</sup> Yusuf veers completely afield and tries to inject a totally different story for the next 19 pages; to try to save his claim to the half-acre.<sup>4</sup> Yusuf now states that although he originally represented to the Master that Yusuf's-United has held record title since 2008 pursuant to the 2008 Deed (and he filed a motion to strike based on that assertion of record title) *the 2008 Deed* and record title are actually totally *irrelevant*.<sup>5</sup>

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<sup>3</sup> Yusuf devotes 17 lines to the issue that is before the Master now. The 13<sup>th</sup> through 16<sup>th</sup> lines concede that it was the Partnership that obtained record title in 2008. Nor is there any dispute that record title remains the same, uninterrupted, as only unrecorded oral conveyances are discussed in his new theory.

...Yusuf and United concede that during the 2008-2011 Transfer Period when the Tutu Half-Acre was transferred from Plessen to United on October 23, 2008, pursuant to a deed-in-lieu, that it was a Partnership asset until 2011.

<sup>4</sup> It is possible that the extensive Yusuf countermotion was included now out of an abundance of caution that Hamed might try to 'rest' on record title and not file a dispositive motion on H-142 regarding 'ownership' as distinct from title. Hamed commits to filing such a motion before April 1<sup>st</sup> per the Master's revised scheduling order. Yusuf will have a full opportunity to argue about his ownership of Tutu property in opposition then. In the interim, both parties will have the opportunity to take depositions about this, as scheduled, on January 21-23, 2019.

<sup>5</sup> Yusuf attempted a similar maneuver in 2014 when, after *eventually* 'conceding' the existence of the Partnership in April, he vigorously and creatively opposed, in a 7-month delay, Judge Brady's entry of partial summary judgment of a partnership. Judge Brady entered judgment.

Thus, the Master is asked to skip over all of this recorded title *nonsense*—because the ‘new’ facts and ‘real’ issue are that Yusuf has personally owned the parcel (without a writing, deed or recording) since 2011. To achieve this, Yusuf alleges a 2011 oral “contract” created 3 years after the facts in Hamed’s motion—in the back-and-forth of an oral settlement negotiation.

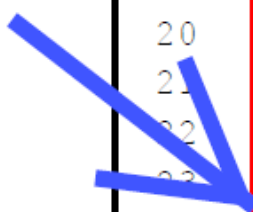
In his remaining 19 pages, Yusuf goes on to not only provide a full-blown statement of his own material facts (solely about his theory, which has *nothing to do with record title*), but also **an entire alternative counter-motion**, complete with a full “Argument” about his post-2008 “ownership.” However, as the Master can clearly see, despite this flurry of new facts, there is no dispute as to the single salient fact—he admits that all of this was verbal and there is no mention of it in any writing. *Nothing was ever recorded.* Record title is unaffected.

Finally, Hamed notes two “introductory” points as to this entire “oral agreement during verbal negotiations” story that might obviate this argument in the future: (1) the Master is asked to compare the *emphasis* in Yusuf’s exhibit asserting Hamed’s depositions “agreement” to an “oral contract” with alternate emphasis that would give a more accurate picture, and (2) similarly, compare the text of the written “Agreement” with how Yusuf describes the Agreement. First, the Opposition states Yusuf testified they agreed to 2 parcels, based on his *Exhibit A*:

9 A. I -- we met, and after I tell him my story of what  
10 I know at that time, he say, What do you want? I say, I'll  
11 take two property for what I discover so far. He say,  
12 Which? I give him the description of the property, one in  
13 Jordan and one at Tutu Park. The one in Jordan, I pay one  
14 million two, approximate. The one at Tutu Park, I paid  
15 1 million for it. 1,000,350, I believe. It's two pieces at  
16 Tutu Park, but we call it one piece. One-half an acre as an  
17 entrance, and 9.31 as the major piece of property.  
18 He say, You can have it. And after they say  
19 it, the man come up front after I tell him my story, and he  
20 was very generous to say, You can have it. And we kept  
21 talking, as a family. After all, we are family, as you  
22 mentioned over and over in your correspondence. We are  
23 family at that time, and we have a very high respect for  
24 each other, even though, up to now we still have high  
25 respect to each other, and I told him, No, one is enough.

That, in a nutshell is the entire basis of Yusuf's new theory. In short, Yusuf represents to the Master, as a fact, that by the end of that in-person settlement negotiation Hamed agreed to two parcels ("one in Jordan and one at Tutu Park....He say, You can have it.") Compare that with what the testimony really says if one reads to the end of the same testimony and places the emphasis correctly.

9           **A. I -- we met, and after I tell him my story of what**  
10           **I know at that time, he say, What do you want? I say, I'll**  
11           **take two property for what I discover so far. He say,**  
12           **Which? I give him the description of the property, one in**  
13           **Jordan and one at Tutu Park. The one in Jordan, I pay one**  
14           **million two, approximate. The one at Tutu Park, I paid**  
15           **1 million for it. 1,000,350, I believe. It's two pieces at**  
16           **Tutu Park, but we call it one piece. One-half an acre as an**  
17           **entrance, and 9.31 as the major piece of property.**  
18                       **He say, You can have it. And after they say**  
19           **it, the man come up front after I tell him my story, and he**  
20           **was very generous to say, You can have it. And we kept**  
21           **talking, as a family. After all, we are family, as you**  
22           **mentioned over and over in your correspondence. We are**  
23           **family at that time, and we have a very high respect for**  
24           **each other, even though, up to now we still have high**  
25           **respect to each other, and I told him, No, one is enough.**



This key language, "and I told him, No, one is enough", says it all and completely discredits Yusuf's "facts." Reading to the end of both the Hamed and Yusuf testimonies, one discovers that both men identically testified as to how that one and only face-to-face settlement negotiation in 2010 ended.<sup>6</sup> The agreement by the time they left was clearly "one parcel."

<sup>6</sup> Both Hamed and Yusuf testified that the oral negotiations on which Yusuf relies occurred in 2010, not 2011. Hamed did, as Yusuf states, transfer the Jordanian parcel in 2011.

As described in (excruciating) detail below, what Yusuf is actually trying to rely on is a series of *subsequent* Yusuf settlement renegotiations with Wally Hamed that started almost immediately after that one settlement negotiation with Mohammad. It is just very hard for Yusuf to come out and say this because everyone repeatedly has testified that these back-and-forth negotiations were on-going well into 2011, involved Yusuf constantly refusing to issue a release unless the number of parcels increased, and were repeatedly rejected. That reality explains the tortured “presentation” of Hamed quotes about that single, in-person settlement negotiation. What Yusuf *REALLY* wants to say is that “the next day I demanded two parcels from Wally.”

It is equally useful to compare Yusuf’s description of the sole written “Agreement” with the actual text. *The tiny beginning part of the document isn’t included.* But, it is the only critical part, and makes it clear that it addresses only that ONE parcel in Jordan mentioned in the testimony above. First, Yusuf’s Exhibit D, showing the actual, full text—with the part Yusuf discusses in the body of his Opposition highlighted.

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### **Written Declaration and Undertaking**

I, the undersigned Mohammad Abdel Qader Asad Hamed, Jordanian nationality, holder of National No. (0933101975), whereas I own 24120 shares out of 46800 shares of the total shares in piece of land No. (310), basin 6, Huwaijer, Tabarbour Village, of east Amman lands, declare, while in full sound mental powers, that I received the price of my share in the mentioned land from Mr. Fathi Yusuf Mohamad Yusuf, Jordanian nationality, holder of National No. (9411 01 3460), hence the said Mr. Fathi has the right to dispose of my shares in full similar to the acts of owner's disposal of his property as of the date of signing this declaration and I undertake not to make any legal disposals in my sold shares such as lease and/or mortgage and/or sale, and and/or any acts and or benefit contracts with third parties and undertake to transfer the ownership of the sold share at the competent Lands Department as soon as possible or execute an irrevocable power of attorney to Mr. Fathi or third parties as

Then take a look at the same text, with the full quote. Review the lines just before Yusuf's highlighted selection. The Agreement is only for one Parcel—in Jordan—and the Agreement tracks the in-person oral negotiation between Mohammad and Fathi exactly as it is described in the Yusuf deposition testimony above. It also matches and Hamed's identical testimony that:

he [Yusuf] had asked for two pieces of property in Jordan. He [Hamed] told him, I'd sign for—for them, no problem. Later, he came—meaning Mr. Fathi Yusuf—and told him [Hamed], You've kicked me in my stomach. It's a term of, **in other words, he was willing to accept, as I understand, one piece of property instead of two.** (Emphasis added.)

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Thus, the Agreement does not help Yusuf at all. To the contrary, it totally undermines his arguments, as it clearly did not convey or mention the half acre Tutu parcel, but instead (in a writing that Yusuf describes as the Agreement that came out of the negotiations) deals only with the “one parcel” that Fathi Yusuf testified he told Mohammad that Yusuf would accept.

- c. *One More Aside, as to Misuse of this Procedure: Yusuf Overreached What He is Allowed to Argue in Opposition—To Rescue Himself From His Failed Theory on Record Title by Trying to Convince the Master that his New Theory is Part of an Existing, Timely Claim*

Before addressing the merits of Hamed's motion or Yusuf's new position, Hamed strongly objects to Yusuf's attempt to use what is supposed to be his opposition to try to "introduce" the idea that Plessen's 9.3 acre adjoining parcel should be dealt in this claims process. Worse, Yusuf tries to slide in the concept that this should occur later, separately because it 'was asserted in his Claim Y-12.' This is complete, utter nonsense. Yusuf's argument is inserted now to overcome the fact that *Yusuf didn't file a timely claim* because it would have directly contradicted his original story.<sup>7</sup> This attempt must be rejected because:

1. Claim H-142 is the only claim that addresses the Tutu property. No other claim does. If Yusuf has positions on the Partnership's ownership of that parcel or any parcel related to it, *this* is the only time to litigate those issues. As record titles are now clear, when Hamed files his dispositive "ownership" motion as scheduled (on April 1<sup>st</sup>) **Yusuf must fully oppose by May 1<sup>st</sup> or lose.**
2. Yusuf's claim Y-12, a B(2) claim, deals solely with foreign accounts and Jordanian properties, hence its title: "Foreign Accounts and Jordanian Properties." See *Yusuf Claims*, September 30, 2016, at page 11. Another way to appreciate that Y-12 deals only "with *foreign* accounts and properties" is to read the first two, introductory sentences of the claim:  

As part of the profit sharing arrangement between the Partners, at various points in time, profits of the Partnership were sent to Jordan to be held in bank accounts or invested in real property to the mutual benefit of the Partners. In addition, Partnership profits were also sent to Jordan to be used as charitable donations of the Partners.
3. Yusuf is attempting to bootstrap a timely claim about Tutu beyond H-142 by pointing to a passing reference in Y-12. In that passing reference in Y-12, Yusuf clearly stated that he was only seeking the Master's assistance regarding foreign property.  
**Yusuf asks this Court to bind Hamed's estate by the agreement signed by Hamed.** [This references the Arabic writing as to the one parcel in Jordan, not the alleged oral agreement, and seeks nothing about Tutu.] (Emphasis added.)
4. At the point he mentions Tutu in Y-12, it is only in reference to relief as to a Jordanian parcel—there is no Tutu claim or requested relief. As for the 9.3 acre parcel, Yusuf's Y-12 actually prevents adding this parcel because of two separate admissions. First

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<sup>7</sup> How could Yusuf explain why, if Yusuf's-United was in record title in 2008 as he represented to the Master, he would be negotiating with Hamed to get it in 2010? One can have alternative theories, but not totally alternative and completely opposing representations of facts.



it states the exact opposite on its face, that the alleged “contract” is for “one **half-acre** parcel.”

parcel is attached as **Exhibit O**<sup>10</sup>. Yusuf had agreed to resolve this misappropriation, but not any others that Yusuf might later discover, by the conveyance of Hamed’s interest in two parcels,

one in Jordan that is the subject of Exhibit N, and one half acre parcel in St. Thomas, previously titled in the name of Plessen Enterprises, Inc., which is addressed in a number of the Liquidating Partner’s Bi-Monthly Reports. See Ninth Bi-Monthly Report at p. 5-6. Yusuf insisted that if

That’s correct—in Yusuf’s own Claim Y-12 (as to foreign properties) he admits that the alleged “oral contract” was for “conveyance of Hamed’s interest in two parcels, one in Jordan and **one half acre parcel** in St. Thomas.”<sup>8</sup> That should end all talk about Plessen’s 9.3 acre parcel.

But even more damning, that claim then goes on, at 13-14, to specifically state that the 9.3-acre parcel can NOT now be included in any claims, because Hamed rejected that demand in Yusuf’s serial renegotiations. This is yet another instance of reading all of the way to the end.

Yusuf had agreed to resolve this misappropriation, but not any others that Yusuf might later discover, by the conveyance of Hamed’s interest in two parcels, one in Jordan that is the subject of Exhibit N, and **one half acre parcel** in St. Thomas, previously titled in the name of Plessen Enterprises, Inc., which is addressed in a number of the Liquidating Partner’s Bi- Monthly Reports. See Ninth Bi- Monthly Report at p. 5 -6. **Yusuf insisted that if Hamed wanted a resolution addressing all Hamed misappropriations, whether known or unknown, Hamed would have to arrange for the conveyance to Yusuf or United of another approximately 9.3 acre parcel located on St. Thomas also titled in the name of Plessen Enterprises, Inc. Hamed, through his son, Waleed, refused to convey this third parcel.**

Finally, any claim to the 9.3 acre is completely inconsistent with Yusuf’s Opposition at 3, where he explains the lack of deeds and writings as to this alleged “contract”—he states (again, as a fact) there are no writings or deeds because the half-acre parcel was already titled

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<sup>8</sup> Neither Yusuf’s prior papers on H-142 nor his description of Claim Y-12 makes **any** mention of the 9.3 acres. As per his Claim text above, he explicitly referred to a half acre parcel.

in United's name thus there was no need for a written agreement, transfer or a new deed. BUT, if the 9.3 acre parcel were really at issue, this makes absolutely no sense. Why are there no writings or deeds— since it (unlike the half-acre) is in Plessen's title, not in United's? Thus, the Opposition becomes absurd if Yusuf suddenly tries to amend his claims to add the 9.3 acres.

As partial performance of this agreement, Hamed relinquished his interests to the property in Jordan on July 18, 2011. As to the Tutu Half-Acre, **because the record title to it was already in the name of United, an entity solely owed by Yusuf and his family, no further documentation was needed to “transfer” or document Hamed's relinquishment of his partnership interests** in the Tutu Half-Acre per the partners' agreement. (Emphasis added.)

Therefore, in PART II Hamed summarily addresses Yusuf's 17-line concession to Hamed's actual motion on 2008 record title. In PART III, he is forced to address Yusuf's efforts to both (1) insert an untimely claim to Plessen's 9.3-acre parcel, and (1) brief an entire, full-length countermotion on his post-2008 ownership of the half-acre.

## II. (Short) Reply re Hamed's Motion—the Only One Actually Before the Master

Yusuf now concedes that (1) 'United as the Partnership Representative' directly paid the seller \$330,000 *from store income via a Partnership account.*) He also now concedes that (2) the “Partnership” version of United received a simultaneous purchase money note and mortgage for \$330,000. Nor is it disputed that (3) in 2008, the deed in lieu of foreclosure recited that it issued *solely* on the basis of a cancellation of the note and mortgage. That alone is sufficient for summary judgment as to record title. Thus, (4) with no other facts, documents or RUPA presumptions necessary to the determination, 'United as Partnership Representative' took record title in 2008.” Yusuf now concedes this, and thus, the motion should be granted.

**III. The New Yusuf 19 Page Countermotion: Yusuf Purchased Hamed's Half-Interest in the Parcel during a 2010 Oral Settlement Negotiation; And Why the Master Must Require Yusuf to Address All Things 'Tutu' in Opposition to H-142**

*a. Introduction*

Yusuf cannot be allowed to lose as to his original position regarding record title and then state that the record title he asserted in his prior motion is not the 'real' issue—in order to get two bites of the Tutu parcel 'apple.' Nor can he try to "add" the 9.3 acre parcel, which Yusuf has conceded (1) is in title to Plessen Enterprises, Inc. as the Partners intended, and (2) Hamed expressly rejected Yusuf's (third) renegotiation 'demand.'

Yusuf must raise any and all facts and theories regarding Tutu property in his May 1<sup>st</sup> opposition to Hamed's April 1<sup>st</sup> dispositive 'ownership' motion, as ordered by the Master in the revised schedule. **Thus, the Master should ignore the last 19 pages of the Opposition (and the balance of this Reply.)** In that case, everything after the next paragraph is superfluous, and not properly before the Master.

If the Master does proceed, however, it is important to understand why Yusuf has to be made to litigate all alleged rights to Tutu property together, in the single, already scheduled proceeding, It is very helpful to review the historical context of the alleged oral 'contract' to see how the various "Fathi Stories" MUST be all heard now, all at once. They are simply too varied and too convoluted to try to parse individually over multiple claims proceedings.

*b. Hamed's Counter-Opposition*

*This summary recitation is provided for context only*, because, despite the "he said-he said" in this new theory, the issues presented in the countermotion are all legal, not factual.<sup>9</sup>

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<sup>9</sup> Hamed does not provide citations here, as he is not relying on these facts for his legal arguments. However, directly following this section, Hamed does provide his full counterstatement of facts not in dispute as to the new countermotion, as required by the rule—with citations to the record.

1. Beginning in early-2010, *exactly* when the underlying criminal matter was reaching settlement<sup>10</sup> and \$42 million in Partnership funds and three parcels would be released, Fathi Yusuf embarked on a plan to get Hamed's half of the Partnership along with the three parcels of land—by either: (1) a (very) low-ball negotiation, or failing that, (2) by simply stealing it by denying a partnership. This would mean close to \$50 million in 'profit' to Yusuf.
2. First, Yusuf had to obtain the jointly owned land *before* he made his overt move on the supermarkets—when his intent to 'take over' would become obvious. So, just weeks after that plea in 2010, Yusuf suddenly, falsely accused the Hameds of theft, sought millions, and demanded that Hamed's half-interest in land be transferred to Yusuf to "buy peace."
3. Hamed disagreed, identifying records proving that the missing funds went to legitimate Partnership purposes. But, it being Fathi, to buy peace, Hamed met with him. It was an in-person negotiation (between Mohammad and Fathi). It was what both characterized in their 2014 depositions as a settlement discussion.
4. Both men agree in their 2014 deposition testimonies that **in this only face-to-face negotiation between them, at the end, only one parcel had been agreed to**—in Jordan.
5. It is also undisputed that pursuant to that face-to-face negotiation, Hamed did (in 2011) sign the proffered Agreement. And he did transfer his half-interest in that one parcel in Jordan—supposedly in return for Yusuf's dropping of his claim. (Yusuf obviously did not actually drop the claim and has effectively re-litigated it here, while keeping the Jordan parcel. Thus, Hamed has filed a claim for its return.)
6. Both agreed in their 2014 depositions that *after* that one face-to face 1-parcel agreement Yusuf tried to re-negotiate through Wally Hamed—and *told* Wally to *tell* Mohammad that Yusuf was now *demanding* a second parcel. All agree that Wally did *tell* this to Mohammad.
7. Yusuf did not testify that Mohammad Hamed ever agreed to this 2-parcel demand after being "told" about it by Wally. Nor did Hamed. However, in the December 20, 2019 opposition, Yusuf incorrectly states to the Master that the original, oral agreement was for two parcels. Yusuf accomplishes this by simply not reading to the ends of quotes of deposition testimony. Thus, Yusuf argues in the Opposition that Hamed "admitted" the following in his 2014 deposition:

[T]hrough an interpreter, Hamed testified:

He [Mohammed] says he—he pleaded with Mr. Fathi Yusuf not to let this get bigger and get—go to court; that in the process of trying to settle this, that **Mr. Fathi had asked for two pieces of property. He [Mohammed] had agreed to that.**

*Id.* at 148:24 – 149:1.

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<sup>10</sup> On February 26, 2010, the defendants in *USA et. al. v. Fathi Yusuf Mohammed Yusuf et. al.*, District Court of the Virgin Islands, Div. of St. Croix, Crim. No. 2005-015 (DE 1248), entered into a plea agreement. Because of that, **\$42 million in cash** was about to become available for the first time in 8 years, along with mutually owned lands subject to federal liens.

But, this is the actual, full testimony, at 148-149 of that deposition—starting at the exact same place, but reading the quote to the end:

He [Mohammad] says he -- he pleaded with Mr. Fathi Yusuf not to let this get bigger and get -- go to court; that in the process of trying to settle this, Mr. Fathi had asked for two pieces of property. He had agreed to that. **Mr. Fathi had then said one is enough**, and then again changed his mind and said, No, he wants the two. And I understood that then he also asked for a third piece of property. **That there was a back and forth trying to find a way to -- to reach settlement**, and that he says he's been accused by Mr. Fathi of stealing, he and his son. He says, I have not stolen. My son has not stolen. We are honorable people.

(Emphasis added.) Thus, the actual testimony, when read in full, matches Yusuf's testimony that by the end of the in-person negotiation, Yusuf had agreed "one is enough." It also matches the testimony and his statement in his Claims filing that there were several subsequent attempts at renegotiation where Yusuf made demands that he would not release Hamed unless more parcels were added: And that Hamed rejected those additional demands.

Similarly, the opposition mis-describes those later Yusuf renegotiations for additional parcels:

Although there was some **subsequent discussion about whether just one of the two properties would be sufficient** to reconcile the \$2,000,000 misappropriation, **the partners ultimately maintained their agreement to resolve that issue** only (the \$2,000,000 misappropriation) with Hamed's relinquishment of his interests to the two properties; i.e. the Jordanian property and the collective Tutu property, including both the 9.3 acre tract and the Tutu Half-Acre. See Exhibit A-Yusuf April 2, 2014 Depo; 78:18–79:18. (Emphasis added,)

Once again what Yusuf fails to include is the next several lines of both men's depositions. That was the point at which Hamed (as did Yusuf in his deposition) stated that before he left that day, they agreed to reduce this back to one parcel. And the "subsequent discussion" was actually with someone else and on another day, went on for months, and was NOT agreed to. And the subsequent discussion was actually just Yusuf's demands that there would be no release without additional parcels.

So, to get to an alleged Hamed "admission," the Opposition selectively edits testimony and repeatedly fails to include full quotes.

8. In the Claims filing, Yusuf admitted that there were additional renegotiation attempts by Yusuf which failed because he was trying to get compensation for "other claims" he "might discover" in the future—which he described as 'known or unknown'—for which he sought additional land. Yusuf's counsel stated that Hamed rejected that second proposal.
9. Yusuf also admitted this in an interrogatory response in another case. He swore under oath that within three months after that alleged agreement, he attempted yet another renegotiation which would have required additional parcels as well. At that time, he stated that Hamed would not get a release for just the two parcels. He admitted that the 3-parcel renegotiation was rejected and only the one parcel in Jordan was ever transferred.

10. It is undisputed on the documents of record in this motion that in late 2010 and early 2011, the written Agreement that came out of the negotiation was drafted by counsel retained and paid for by Fathi Yusuf.
11. That Agreement was signed on July 8, 2011.
12. It is also undisputed that Yusuf's legal counsel faxed that signed Agreement along with a bill in November 2011.
13. It is also a matter of the undisputed factual record that there are no subsequent writings or financial records which ever even mention any second agreement as to the Tutu parcel. It is not mentioned in any deed, document, communication, writing or other item of evidence.
14. The 9.3 acre parcel is not mentioned in the Agreement, and no counsel was ever retained by Yusuf or Hamed as to that parcel.
15. No deed or other writing contrary to the 2008 Deed has ever been executed or recorded.
16. To the contrary, in the Opposition, Yusuf admits that the books and financials of the Partnership, submitted both to this Court and to the IRB by Yusuf, continued to reflect the original status of the property as being Partnership property (owned 50/50) until mid-2015, when Yusuf unilaterally changed the Partnership books in response to this claim. He states that this was an error.
17. Yusuf admits that those 2013 financials, identifying the parcel as Partnership property were submitted by Yusuf as the correct Partnership accounting—to this Court, the BIR and the federal court. Also an error.
18. Then, in 2012, just before taking the \$2.7 million, Yusuf tried to negotiate what he specifically called a dissolution of the Partnership—by offering a predatory, absurd buyout that was instantly rejected. So, he went forward with the plan to steal Hamed's half by simply denying the Partnership. Also, apparently, a huge error.
19. From that point on Yusuf repeatedly denied publicly and in court filings, verbally and under oath, stated (1) that there ever had been a partnership, (2) that neither he nor Hamed ever referred to themselves as partners, (3) that Hamed was an illiterate backroom employee, *and (4) that Hamed wasn't due anything more than an annuity (which Yusuf could determine at his discretion) as Hamed was just a long-departed nobody.*

Thus, the real point of factual dispute about this parcel is that Hamed contends there was never a demand by Yusuf for a second parcel that he accepted, no meeting of the minds—and even if there had been, Yusuf kept renegotiating by refusing a release until Hamed met Yusuf's increasing demands for more parcels—which renegotiations were rejected. This constituted anticipatory breach and repudiation.

*c. Hamed's Counter-Statement of Undisputed Facts re Yusuf's New Countermotion*<sup>11</sup>

1. On February 26, 2010, the Hameds and Yusufs entered into a criminal plea agreement. Because of that, \$42 million in cash was about to become available for the first time in 8 years, along with mutually owned lands. See Docket Entry 1248, *USA et. al. v. Fathi Yusuf et. al.*, District Court of the Virgin Islands, Div. of St. Croix, Crim. No. 2005-015.
2. Thereafter, in 2010, Yusuf immediately began to claim Hamed owed him millions, and demanded Hamed's half of parcels of land. See citations to the record in ¶¶ 4-8 below.
3. In what is quite unusual in this case, both Fathi Yusuf and Mohammad Hamed gave remarkably similar deposition testimonies about what happened regarding the 2010 mediation and 2011 writing that underlies Yusuf's position here. See citations in ¶¶ 4-8.
4. Fathi Yusuf's deposition of April 2, 2014, provides the following at 77-79. **Exhibit 27.**

Q. [By Joel Holt] You know, I asked a question, but I asked it wrong, but didn't there come a time when you and Mohammad Hamed sat down within the last year and a half and tried to resolve things by—he talked about it a little bit in his deposition about the giving of properties and things of that nature. Do you recall that?

A. [By Fathi Yusuf] Much more than a year and a half.

Q. Can you tell me about that?

A. Can you come up with question, or you want to come up with a story?

Q. I can—I actually like the way you tell the story, but I'll tell you what I've—what I've heard, and then you can correct what I've heard. **That the two of you met to try to resolve all the differences** between you and yourself, the Hamed family, and Wally in particular.

A. Yes.

Q. And that he offered two or three properties, and **you agreed to take one** or something like that. And, you know, I never really quite -

A. I can comment on that.

Q. Okay. Please.

A. I—we met, and after I tell him my story of what I know at that time, he say, **What do you want? I say, I'll take two property for what I discover so far. He say, Which? I give him the description of the property, one in Jordan and one at Tutu Park.** The one in Jordan, I pay one million two, approximate. The one at Tutu Park, I paid 1 million for it. 1,000,350, I believe. It's two pieces at Tutu Park, but we call it one piece. One-half an acre as an entrance, and 9.31 as the major piece of property. **He say, You can have it.** And after they say it, the man come up front after I tell him my story, and he was very generous to say, You can have it. And we kept talking, as a family. After all, we are family, as you mentioned over and over in your correspondence. We are family at that time, and we have a very high respect for each other, even though, up to now we still have high respect to each other, and I told him, No, one is enough.

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<sup>11</sup> To avoid even more confusion, Hamed responds to Yusuf's Counterstatement of Facts (which are really his statement of facts as to his countermotion) in a separate document, **Exhibit 30.**

5. Thus, Fathi admitted that by the end of the only in-person negotiation with Mohammad, he agreed to a settlement with just the Jordanian parcel, stating "one is enough." He then went on to describe what happened later, with Wally. *Id.*

[*Id.* begin page 79] So I went to the store, I take a look, and I analyze the bank statement of what he was saying. I say, Man, after that, this man would not even tell me the truth, unfortunate? **So immediately I told Wally, Do me a favor, Wally. You was present. Go back to your father and tell him, No, I wanted the two piece of property.** That's the same day. Not even, as soon as we get to the store, it take me about half an hour to take a look of what he was talking about. Unfortunate, I have found it's impossible what he was talking about, it could be true. And I say, Come on, man. You know? **And—and he went home that night. He told his father. The next day he come to work, I say, Did you tell your father? He said, Yes. I said, Fine. That's it.**

Q. Okay. You done?

A. Done.

6. Thus, in 2014, Yusuf testified in deposition that there was an initial agreement for one parcel in the face-to-face meeting. The meeting then ended. He testified he subsequently asked Wally to 'tell' his father about an additional demand. Wally verified that he did 'tell his father.' Yusuf never states the renegotiation was accepted or that it displaced the agreement the day before. To the contrary, all that we have on this is the writing which Yusuf calls the "Agreement"—which involves just the one parcel in Jordan. *Id.* See also the Agreement, Exhibit
7. It is interesting that Mohammad Hamed's deposition testimony about the identical settlement discussion and writing, which Yusuf attended two days before his own testimony, is 99% in agreement with Yusuf's rendition. **Exhibit 28.**

Q. (Mr. Hodges) Mr. Hamed, given the 25-plus years that your—you and Mr. Yusuf have—have worked together in the store, why haven't you taken the time to make sure you understand what the facts are with respect to this \$2.7 million dispute?

MR. HARTMANN: Object as to form. Object, argumentative.

A. (Speaking in Arabic.) Work, work, work, work, day and night.

THE INTERPRETER: Okay. I can only translate or interpret what he said. He's saying—he said that they come from the same area, they are farmers, and that, you know, he was responsible for bringing them here. When they arrived here, they came to his home. He welcomed them, and—and helped them out, and—and over the years, he established a [begin page 138] business, a grocery business, and when he made some money, here came a time when—when Mr. Fathi Yusuf was going to build a shopping center. It's a long story, and that, you now, most of their time has been working, working, and here's really—there hasn't been a time that they could sit and talk.

Q. (Mr. Hodges) In the past two years, isn't that right?

A. (Speaking in Arabic.) Okay. Go ahead.

THE INTERPRETER: He said, I begged him to sit and—and—and—so we can finish this, and in Jordan, we—we—we, in my house, we met, and I was giving him—(speaking in Arabic). **He asked for two pieces of --**



A. Just one I want.

THE INTERPRETER: —he had asked for two pieces of property *in Jordan*. He told him, I'd sign for—for them, no problem. **Later**, he came—meaning Mr. Fathi Yusuf—and told him, You've kicked me in my stomach. It's a term of, in other words, **he was willing to accept, as I understand, one piece of property instead of two.** (Speaking in Arabic.) **Next day, he came back and asked for the other piece of property.**

8. In a Yusuf answer to an interrogatory given is another case, with other counsel (prior to the 2014 depositions here) Yusuf told virtually the same story—*except for the ending*. In Yusuf's ending that time, both Wally and Mohammad Hamed expressly and specifically refused any renegotiated agreement as to the Tutu Parcel and any additional parcels—and expressly, contemporaneously, refused to transfer the Tutu half-acre as part of some 'settlement.'

When Responding Party asked Waleed Hamed to proceed with the transfer of the Tutu Park property, it is at this point, several months later, that Plaintiff Waleed "Wally" Hamed and Plaintiff Mohammed Hamed refused to transfer not only the second property [Tutu], but also the third property **requested** as a set-off for the unauthorized transactions. (Emphasis added.)

*Supra*. Exhibit 25, Defendant Fathi Yusuf's Answers to Plaintiff Waleed "Wally" Hamed's First Set of Interrogatories, Hamed et al. v. Yusuf, SX-12-CIV-377 at page 9 of 50.

Thus, the facts are *mostly* clear based on the parties' testimony, and only one "fact" lies in real contention—was there ever acceptance of a renegotiated second (or third) oral agreement as to the Tutu parcel? As shown below, that fact is irrelevant to the legal issues presented.

c. *Hamed's Opposition Argument as to the Countermotion—Five Legal Issues*

At first glance, this looks like an impenetrable mess. There is *seemingly* no way for the Master to resolve the "he said, he said" as to whether 1, 2 or 3 parcels were agreed to in these running oral settlement discussions that spanned 2010 and 2011. **Fortunately, however, this is absolutely unnecessary.** The five issues raised are legal ones and do not require either an answer to that question or additional factual inquiries.

The Master does not have to decide the impossible because Yusuf seeks to prosecute his position<sup>12</sup> *solely* by seeking to admit verbal evidence of an oral agreement that arose in a

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<sup>12</sup> Pursuant to RUPA § 204(c), it is Yusuf's burden to prove his 100% ownership of this parcel. Because the parcel was purchased with Partnership funds, he has the burden of proof. After

settlement negotiation. There is absolutely no other written reference to this “contract” for two parcels—from 2010 to the beginning of litigation. To succeed, he would have to overcome five different, independently sufficient legal issues. Even if every fact as averred by Yusuf in his opposition here and his 2014 deposition is taken as true, judgment must still be granted as a matter of law, because:

1. Yusuf’s argument involves enforcing what both men agree occurred solely during a settlement negotiation, and is therefore inadmissible—because, as a matter of VI law, evidence “either to prove or disprove the validity or amount of a disputed claim . . . is not admissible either [for] (1) furnishing, promising, or offering—or accepting, promising to accept, or offering to accept—a valuable consideration in compromising or attempting to compromise the claim” or as to “(2) conduct or a statement made during compromise negotiations about the claim.”
2. Independently, the parol evidence rule applies where there is a contemporaneous written outcome of such discussions. Here, it was a writing drafted by counsel retained by Yusuf following the negotiation. Yusuf calls this the Agreement.
3. Four years after this supposed settlement, in 2015, Fathi Yusuf was still carrying the parcel on the Partnership books, United was NOT carrying it on United’s books—and Fathi represented these financials as being accurate to both the IRB under penalty of perjury and this Court under oath. As a matter of law, he is either (1) judicially estopped from now arguing “alternative facts,” or (2) it is a “judicial admission” in this case, which he cannot contradict.
4. Even if Yusuf thought he had an oral deal for two parcels in good faith, there was no “meeting of the minds” as to which parcels were involved. This can be seen from their similar testimony, Yusuf’s admission in an interrogatory response that Hamed rejected the multi-parcel renegotiation attempts—refusing transfer, and the undisputed documents of record. As a matter of law there is no contract.
5. Even if Yusuf thought he had an oral deal for two parcels, HE repudiated and then breached that deal by (a) subsequently demanding that the deal would only go through with 2 then 3 parcels, and by then litigating the \$2 million in claims.

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reading many, many RUPA partnership dissolution cases involving “he said, she said” disputes about allegations of “oral dispositions” of property when a partnership breaks up badly, one would have to say that this type of disagreement is very, very common in RUPA winding up proceedings. Certainly, as things are breaking up, many partners claim that their partner orally “gave them most of the machines” at some earlier point in the partnership. That sad reality is exactly why the Section 204(c) presumption exists—to avoid endless such oral “he said, she said” claims. It splits property bought with partnership funds 50/50 by default but then gives the partner claiming such an oral agreement, who claims 100%, the opportunity to prove the parties’ intent to a judge or master’s satisfaction.

Hamed will address each issue individually.

- i. This new Yusuf argument involves what both parties state was a settlement negotiation, and intermediate oral 'agreements' during such discussions are inadmissible and non-binding.

Both men describe a 2010 settlement negotiation to deal with a disputed claim by Yusuf—one which eventually led to this litigation. The following are statements from the documents already cited and quoted above. First, from Yusuf's deposition:

[Holt] ...the two of **you met to try to resolve all the differences** between you and yourself, the Hamed family, and Wally in particular.

A. [Yusuf] Yes.

Also, from Hamed's deposition:

THE INTERPRETER: He said, **I begged him to sit and—and—and—so we can finish this**, and in Jordan, we—we—we, in my house, we met, and I was giving him—(speaking in Arabic). He asked for two pieces of --

A. [Hamed] Just one I want.

THE INTERPRETER: —he had asked for two pieces of property *in Jordan*. He told him, I'd sign for—for them, no problem. *Later*, he came—meaning Mr. Fathi Yusuf—and told him, You've kicked me in my stomach. It's a term of, in other words, he was willing to accept, as I understand, **one piece of property instead of two. (Speaking in Arabic.)**

The most fundamental USVI law on oral discussions during such settlement negotiations for the purpose of compromising claims is very clear:

Rule 408. Compromise Offers and Negotiations (a) Prohibited uses.

(a) Evidence of the following is not admissible—on behalf of any party—either to prove or disprove the validity or amount of a disputed claim or to impeach by a prior inconsistent statement or by contradiction:

(1) furnishing, promising, or offering—or accepting, promising to accept, or offering to accept—a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or a statement made during compromise negotiations about the claim.

(b) Exceptions. The court may admit this evidence for another purpose, such as proving a witness's bias or prejudice, or negating a contention of undue delay.

Yusuf admits that the parties met to negotiate a compromise to a disputed claim. Despite this, he wants to create a contract out of what was discussed and re-discussed in those negotiations.

Worse yet, what he really wants to admit into evidence is an alleged oral RENEGOTIATION of that oral settlement discussed with another person AFTER the initial negotiation ended. Further, he wants to admit an oral agreement that is different from what the sole writing that emerged states—to show another, different, intermediary offer and acceptance in discussions, directly contrary to the writing. Finally, he *also* wants to ignore his own admission that he attempted a second and third renegotiation where he said he would not issue a release unless additional parcels were agreed to—an explicit repudiation of any earlier agreement.

This is exactly why Rule 408 exists. This court stated the following with regard to settlement negotiations between private parties:

As previously noted, Rule 408 was amended and further clarified, effective December 1, 2006, which changed the practical implementation [<sup>\*\*17</sup>] of the rule in admitting compromise negotiations and offers to settle. Specifically, the amendments clarify a number of points quite applicable in the instant matter. First, there is no absolute prohibition on the admission of statements made to government agents during compromise negotiations. **Second, statements made during compromise negotiations of private matters are not admissible, if offered to prove liability, invalidity or amount of the claims in dispute. Third, the rule prohibits both the party attempting to compromise either by an offer to settle or through an admission of fault, and the party to whom the offer to compromise was made, from disclosing the contents of those discussions.** (emphasis added.)

*People v. Brewley*, No. ST-06-CR-402, 2007 V.I. LEXIS 24, at \*16-17 (Super. Ct. Nov. 16, 2007). As the court noted: “These prophylactic measures are intended to ensure that Rule 408 retains the underlying policy of encouraging settlements and admitting fault when necessary.”

- ii. The parol evidence rule applies where there is both contemporaneous written agreement and testimonial admissions by the party in this proceeding about that writing evidencing a settlement. This was what Yusuf has stated is an agreement drafted after consultation with and with the assistance of counsel.

Yusuf has (probably correctly) taken the position that the statute of frauds is somewhat suspended in this case at this point. He states that Judge Brady has ruled on this.<sup>13</sup> That does not obviate the separate parol evidence rule which is not affected by RUPA. Here there is not just an alleged oral agreement between partners, there is a writing that Yusuf has told the Master is the “Agreement” that arose out of the settlement negotiations. Parol oral evidence cannot be admitted contradicting the writing that Yusuf himself calls the Agreement.

In other words, “a writing intended as the entire understanding of the parties is then subject to the parol evidence rule which precludes consideration of extrinsic evidence of a prior or contemporaneous agreement extending or altering the authority granted in writing.” *Phillips v. Andrews*, 332 F. Supp. 2d 797, 803, 46 V.I. 233 (DVI App. Div. 2004). However, extrinsic evidence may be admitted interpreting a vague term in an agreement or it may be used to establish “illegality, fraud, duress, mistake, lack of consideration, or any other invalidating cause.” RESTATEMENT (SECOND) OF CONTRACTS § 214 [\*\*22] (1981).

*Jefferson v. Bay Isles Assocs., L.L.P.*, No. ST-09-CV-186, 2011 V.I. LEXIS 7, at \*21-22 (Super. Ct. Feb. 1, 2011). There was no vague term in the written agreement about which land is involved—specific land is stated, and the Tutu parcel is not mentioned. Yusuf admits in his own filing that this is the ‘Agreement’ that came out of that negotiation. Further, in his claims filing, Yusuf states:!

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<sup>13</sup> As this was land bought with Partnership funds, it is subject to RUPA not the SOF. Hamed notes, however, that Yusuf attempts a transfer of land by an ambiguous oral agreement as to which there is no “contract or some note or memorandum is in writing.” That is a different animal than the type of partnership agreements previously discussed in this case as to formation and terms of partnership. The USVI doesn’t allow the conveyance of land by oral transfer. 28 V.I.C § 242 (“Every contract for . . .the sale of any lands, or any interest in lands, shall be void unless the contract or some note or memorandum is in writing, and signed by the party to be charged, or by his lawful agent under written authority.”) That said, RUPA does probably control.

Hamed's interest in another parcel that was purchased in Jordan using funds from the Plaza Extra Stores has already been conveyed to Yusuf **as part of Hamed's efforts to appease Yusuf following his discovery of the misappropriation** of \$2,000,000 sent to Hamed from St. Maarten in or around 1997. A copy of **the agreement** in Arabic conveying Hamed's interest in such parcel is attached as Exhibit 0. (Emphasis added.)

**Exhibit 29.** (The English translation of the Agreement is **Exhibit 29a.**) So what Yusuf is trying to get away with here is the argument that while the two men retained counsel, had a writing drafted and entered into it with regard to the Jordanian parcel; oddly, the parallel contract for the half-acre at Tutu was not in writing then or ever—and the second contract has never been reflected or even mentioned in any deed, writing, communication or financial record.

- iii. Four years after this supposed 2010-2011 “settlement as to the half-acre,” in 2015, Fathi Yusuf was still carrying the parcel on the Partnership books, United was NOT carrying it on United’s books—and Fathi represented these financials as being accurate to both the IRB under penalty of perjury and this Court under oath. As a matter of law, he is judicially estopped from arguing “alternative facts.”

Hamed incorporates the factual recitation in his main motion, that Fathi Yusuf submitted statements and financials, under oath to the IRB and to this Court; that until 2015, the half-acre parcel was always on the books and financials of the Partnership as a Partnership asset.

The doctrines of judicial estoppel and judicial admission preclude a party from contradicting its previous position where there has been no change in the law, simply because his interests have changed. *New Hampshire v. Maine*, 532 U.S. 742 (2001). This is “to protect the integrity of the judicial process by prohibiting parties from deliberately changing positions according to the exigencies of the moment.” *New Hampshire*, 532 U.S. at 749.

The U.S. Supreme Court has noted that this doctrine is not restricted to statements in prior cases but applies within a single case. (This is sometimes referred to as a judicial admission.) For an excellent discussion of this, see *Intellivision v. Microsoft Corp.*, 784 F. Supp. 2d 356, 364 (S.D.N.Y. 2011), where the 2d Circuit, in affirming a district court, rejected the

argument that judicial estoppel requires a party's position to have been adopted by a different court or in a "prior separate proceeding."<sup>14</sup> Citing *Pegram v. Herdrich*, the court noted that judicial estoppel is a flexible equitable doctrine without fixed requirements and that judicial estoppel "generally prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase."

Thus, "[j]udicial estoppel prevents a party from 'playing fast and loose with the courts'," *Scarano v. Central R. Co.*, 203 F.2d 510, 513 (3d Cir. 1953) (internal citation omitted.)

- iv. Even if Yusuf thought he had an oral deal, his own existing testimony demonstrates there was no "meeting of the minds" as to which parcels were involved. Thus, as a matter of law, there is no contract.

Even if RUPA 204(c) wasn't creating a presumption in favor of this being Partnership property, a party asserting a contract has the burden to show there was a meeting of the minds. Thus, accepting every fact he has suggested as true and ignoring the inadmissibility of a settlement discussion and the existence of a writing, Yusuf cannot show there was actually a meeting of the minds in those settlement discussions. His own story varies from his deposition to this claims statement to his interrogatory response. But even accepting his "best" version, when did Hamed agree to the second parcel?

The basic law of contract and the basic burden Yusuf bears are clear. *Cornelius v. Bank of Nova Scotia*, No. 2015-0058, 2017 V.I. Supreme LEXIS 50, at \*21 (Aug. 8, 2017) ("a contract is only formed or modified to the extent there is mutual assent and mutual consideration,") see

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<sup>14</sup> The *Intellivision* court noted, at 364:

See *Pegram v. Herdrich*, 530 U.S. 211, 228 n.8 (2000) ("Judicial estoppel generally prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase." (emphasis added)); see also *Stichting*, 407 F.3d at 45 (considering whether a party should be judicially estopped for taking "a position in their first motion to dismiss that was actually inconsistent with that taken on the current motion").

also *Williams v. UVI*, No. ST-00-CV-148, 2019 V.I. LEXIS 2, at \*5-6 (Super. Ct. Jan. 18, 2019)(emphasis added)

Here, this court finds that Defendant is correct that there was no express contract created between the parties. The language of the 1997 memo does not expressly offer a promise of merit pay to Plaintiffs, **there was no clear acceptance by Plaintiffs** as Plaintiffs were conditioned on their employment agreement to continue working for Defendant, thus the continued benefit given to Defendant by Plaintiffs does not signal separate adequate consideration to this court. **Also, without an offer presented by Defendant and an acceptance by Plaintiffs, this court cannot deduce that there was a manifestation of mutual assent between both sides or a “meeting of the minds.”** Therefore, absent clear evidence of all requirements of an enforceable contract, this court holds that no enforceable express contract existed between Plaintiffs and Defendant. (Emphasis added.)

Here, there was “no clear acceptance of any offer.” Yusuf never, in any of his several versions, stated that Hamed agreed to his increasing demands for two and then three parcels—only that:

1. “[Yusuf] informed Waleed Hamed to tell his father that one property not enough to compensate. . .” Never any mention that Mohammad Hamed said “OK.”
2. “Shortly thereafter, Mohammed Hamed travelled to Jordan with his son Mufeed Hamed. [Yusuf] followed them to Jordan to complete the transfer of the [one] property in Jordan.”
3. “Before Mohammed Hamed transferred the property, [Yusuf] **made it clear**, more than once, that his acceptance of the two (2) properties were only for what he had discovered so far. . . . Mohammed Hamed went ahead and transferred his interest in the Jordanian Property, **and was supposed to transfer** his interest in the Tutu Park Property.
4. “Plaintiff Mohammed Hamed refused to transfer not only the second property, but also the third property requested as a set-off for the unauthorized transactions.”

In short, there is no offer and acceptance after the initial oral agreement as to the one parcel in Jordan—which Hamed did transfer to Yusuf—exactly as described in the writing. There is only Yusuf repeatedly TELLING the Hameds that they must renegotiate, and Mohammad Hamed’s repeated silence or refusals to either agree or to do so. As best, absent Mohammad’s express assent, the 2-parcel renegotiation with Wally was a unilateral contract offer requiring Hamed’s performance for acceptance—which Yusuf admits Hamed declined.



- v. Even if Yusuf thought he had an oral deal for two parcels, HE breached that deal by litigating the same \$2 million in claims by renegotiating and also by refusing to provide a release and making the claims here

Finally, when Yusuf describes the “ongoing” nature of the “negotiations” (i.e., his continually increasing demands) he makes it absolutely clear that although Hamed has already transferred the first parcel, the deal was still not done.

As a result of these new discoveries of even more unauthorized transfer of funds by Plaintiff/Waleed Hamed, the Defendant informed Wally Hamed that it has to be three (3) properties to cover everything had found.

Yusuf was still negotiating what was necessary for a release. Even if there were had been an original, oral 2-parcel deal, this was an express repudiation by Yusuf—he says that he stated there would now be no release without a THIRD parcel. And there is absolutely no factual disagreement that this **re-re-renegotiation** was refused.

#### **IV. Conclusion**

The Partnership is clearly in record title today based on the *2008 Deed*. Partial summary judgment should issue.

Moreover, there is no timely claim in Y-12 for this parcel. If Yusuf wants to assert the position that the Partnership doesn't own the parcel or any associated land, he must do so in opposition in this B(1) process. He must first fully supplement his discovery responses with all facts and documents he will use and which exist. He must then testify in deposition on January 22<sup>nd</sup> as scheduled. Finally, he must file his arguments in his opposition to Hamed's motion on H-142 by May 1st—not later in as to Claim Y-12, “Foreign Accounts and Jordanian Properties.”

**Dated:** December 22, 2019



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### CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 2019, I served a copy of the foregoing by email (via CaseAnywhere), as agreed by the parties, on:

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### CERTIFICATE REGARDING WORD/PAGE COUNT

This document does **NOT** comply with the word limitation set forth in Rule 6-1 (e). It does comply with the limits therein. Therefore, a companion motion of an enlargement of the total number of words and pages is filed simultaneously.



## EXHIBIT LIST

<p><b>Exhibit 23</b></p>	<p><i>Yusuf Reply (re Motion to Strike Claim H-142), March 20, 2018, at 3-4</i></p>	<p>Yusuf agrees with Hamed's statement at page 3 of his Opposition that "[a]s of the date of entering this Plan, United Corporation owned a half acre plot on St. Thomas, Parcel No. 2-4, Remainder Estate Charlotte Amalie, <b>which it took title to on October 23, 2008.</b> See Exhibit 2." See Opposition at p. 3 (emphasis in original) and Exhibit 2 of the Opposition.</p> <p>Accordingly, the undisputed record reflects that before the bar date set forth in the Limitation Order, Plessen was the owner of this parcel and that after such bar date, United has been the owner. (Emphasis in the original.)</p>
<p><b>Exhibit 24</b></p>	<p>Yusuf/United's November 4, 2019 <i>Opposition to the Motion to Compel as to H-142</i> at 3</p>	<p>Adopted the statement about United's ownership pursuant to the 2008 Deed:</p> <p>"Yusuf and United specifically incorporated by reference as if fully set forth therein verbatim their Motion to Strike Claim H-142, which further elaborated upon the documentation relating to this parcel."</p>
<p><b>Exhibit 25</b></p>	<p>Declaration as to Record Title</p>	<p>Extensive</p>
<p><b>Exhibit 26</b></p>	<p>Order, Master's July 12, 2018 denial of the Yusuf/United motion to strike this claim</p>	<p>"Hamed Claim No. H-142 is not barred by the Limitation Order because the transaction relevant here—from Plessen to United, assuming arguendo it was United operating as the Partnership—did not occur until October 23, 2008, which is after September 17, 2006, the limitation date set forth in the Limitation Order."</p>
<p><b>Exhibit 27</b></p>	<p>Fathi Yusuf's deposition of April 2, 2014 at 77-79</p>	<p>Extensive</p>

<b>Exhibit 28</b>	Mohammad Hamed's deposition of April 1, 2014 at	Extensive
<b>Exhibit 29</b>	Yusuf Claims submission of September 30, 2016	<p>Hamed's interest in another parcel that was purchased in Jordan using funds from the Plaza Extra Stores has already been conveyed to Yusuf as part of Hamed's efforts to appease Yusuf following his discovery of the misappropriation of \$2,000,000 sent to Hamed from St. Maarten in or around 1997. A copy of the agreement in Arabic conveying Hamed's interest in such parcel is attached as Ex. 0." [Yusuf's counsel supplied an English translation which is appended as <b>Exhibit 29a.</b>]</p> <p>Also, that:</p> <p>"Yusuf insisted that if Hamed wanted a resolution addressing all Hamed misappropriations, whether known or unknown, Hamed would have to arrange for the conveyance to Yusuf or United of another approximately 9.3 acre parcel located on St. Thomas also titled in the name of Plessen Enterprises, Inc. Hamed, through his son, Waleed, refused to convey this third parcel."</p>
<b>Exhibit 29a</b>	English Translation of the 2011 "Agreement"	Extensive
<b>Exhibit 30</b>	Hamed's Response to Yusuf's Counter-Statement of Facts in Support of his New Countermotion	Extensive

# **Exhibit 23**

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

WALEED HAMED, as Executor of the )  
Estate of MOHAMMAD HAMED, )

Plaintiff/Counterclaim Defendant, )

v. )

FATHI YUSUF and UNITED CORPORATION, )

Defendants/Counterclaimants, )

v. )

WALEED HAMED, WAHEED HAMED, )  
MUFEED HAMED, HISHAM HAMED, and )  
PLESSEN ENTERPRISES, INC., )

Additional Counterclaim Defendants. )

WALEED HAMED, as Executor of the )  
Estate of MOHAMMAD HAMED, )

Plaintiff, )

v. )

UNITED CORPORATION, )

Defendant. )

WALEED HAMED, as Executor of the )  
Estate of MOHAMMAD HAMED, )

Plaintiff, )

v. )

FATHI YUSUF, )

Defendant. )

CIVIL NO. SX-12-CV-370

ACTION FOR INJUNCTIVE  
RELIEF, DECLARATORY  
JUDGMENT, AND  
PARTNERSHIP DISSOLUTION,  
WIND UP, AND ACCOUNTING

Consolidated With

CIVIL NO. SX-14-CV-287

ACTION FOR DAMAGES AND  
DECLARATORY JUDGMENT

CIVIL NO. SX-14-CV-278

ACTION FOR DEBT AND  
CONVERSION

REPLY TO HAMED'S OPPOSITION TO MOTION TO STRIKE  
HAMED AMENDED CLAIM NOS. 142 & 143

~~Defendants/counterclaimants Fathi Yusuf ("Yusuf") and United Corporation ("United")  
(collectively, the "Defendants"), respectfully submit this Reply to "Hamed's Opposition to  
Yusuf's Motion to Strike As To Claims H-142 & H-143-Two Parcels of Land" filed on March 5,  
2018 (the "Opposition"). As the Master is well aware, on July 21, 2017, Judge Douglas A. Brady~~

EXHIBIT

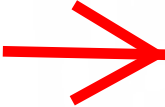
23

~~set forth in the Limitation Order, in the Opposition, Hamed attempts to use smoke and mirrors in an effort to “have his cake and eat it too.”~~

**A. Hamed’s Amended Claim No. 142 (Original Claim No. 490)**

For the first time, Hamed refers to this one-half acre parcel as the “Access Parcel” “that provides access to a nine acre parcel jointly owned by the parties.” *See* Opposition at p. 2. Previously, Hamed described the parcel as “adjacent to a larger parcel jointly owned by Plessen Enterprises, Inc.” *See* Defendants’ Motion to Strike Hamed’s Amended Claim Nos. 142 and 143 (“Motion to Strike”) at p. 2, quoting from Hamed’s original claim. In any event, Hamed has provided the Master with absolutely no evidence that the subject parcel is needed for access to any other parcel.

Hamed claims there are three independent reasons why this claim cannot be summarily stricken. The first reason is a non sequitur in which Hamed argues that this property is a “Partnership Asset” not a “Claim,” as these terms are defined in the Plan. This simply makes no sense. Either the parcel is or is not a Partnership Asset. Clearly, Hamed is asserting a claim against the Partnership that his account should be credited for \$500,000 based on the false assertion that the parcel is a Partnership Asset. Any interest the Partnership had in this property ceased when the two Partners decided that title to the parcel would be held in the name of their jointly owned company, Plessen Enterprises, Inc., pursuant to the deed dated July 26, 2006 attached as Exhibit 2 to the Motion to Strike. From that day until Plessen conveyed the property to United pursuant to a ~~Deed in Lieu of Foreclosure signed by Hamed on October 23, 2008, the property was an asset of~~

 ~~Plessen, not the Partnership.~~ Yusuf agrees with Hamed’s statement at page 3 of his Opposition that “[a]s of the date of entering this Plan, United Corporation owned a half acre plot on St. Thomas, Parcel No. 2-4, Remainder Estate Charlotte Amalie, **which it took title to on October 23, 2008.** *See Exhibit 2.*” *See* Opposition at p. 3 (emphasis in original) and Exhibit 2 of the Opposition.



Accordingly, the undisputed record reflects that before the bar date set forth in the Limitation Order, Plessen was the owner of this parcel and that after such bar date, United has been the owner.

~~The fact that this property was reflected as an asset on the balance sheets attached as Exhibits 3 and 4 to the Opposition is of no moment because both of these balance sheets were prepared by John Gaffney, who acknowledged: "Land with a Cost of \$330,000 was recorded as an asset of the partnership in error. Reduction to zero corrects the mistaken entry." Indeed, it was disingenuous of Hamed to only include the first of four pages of the combined balance sheets of the Partnership as Exhibit 4 to his Opposition. All four pages of the Combined Balance Sheets are attached as **Exhibit A** for the Master's convenience. As can be seen, note 6 on page 1 corresponds with note 6 on page 2, which contains the language quoted above.~~

Accordingly, as of the recordation of the Warranty Deed to Plessen on August 24, 2006, the land has not been an asset of the Partnership. Approximately two years later, Plessen, acting through Hamed as President, voluntarily conveyed the land to United. The fact that the land was originally purchased with Partnership funds does not mean that it should be included among Partnership Assets. If that were the case, hundreds of acres purchased with Partnership funds but titled in the names of Plessen and other companies jointly owned by Hamed and Yusuf, *e.g.*, Peter's Farm Investment Corporation and Sixteen Plus Corporation, would all constitute Partnership Assets requiring liquidation. In footnote 1 of his August 5, 2016 Order Denying Hamed's Motion to Remove the Liquidating Partner, Judge Brady stated the following:

Defendants assert and provide copies of Deeds-in-Lieu of Foreclosure and a release of Mortgage to demonstrate that Hamed, acting as president of Plessen Enterprises, Inc., voluntarily conveyed the real property in issue to United and that both Partners contemplated that the property would become part of the 'claims portion' of the liquidation process. Opposition, at 3-4. The Court also accepts Defendants' explanation that counsel made a mistake in the third and fourth bi-monthly reports, and that the fifth and sixth bi-monthly reports have corrected that mistake with regard to this real property. *Id.*  
Plaintiff does not address Defendants' contention in his Reply.

~~by the Limitation Order. To the extent they are not barred, discovery is required.~~

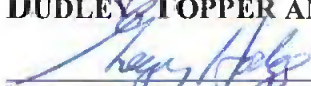
For all of the foregoing reasons, as well as the reasons set forth in Defendants' Motion to Strike, Defendants respectfully requests the Master to strike Hamed's Amended Claims Nos. 142 and 143 and to provide Defendants with such further relief as is just and proper under the ~~circumstances.~~

Respectfully submitted,

**DUDLEY TOPPER AND FEUERZEIG, LLP**

**DATED:** March 20, 2018

By:

  
\_\_\_\_\_  
Gregory I. Hodges (V.I. Bar No. 174)  
Stefan B. Herpel (V.I. Bar No. 1019)  
Charlotte K. Perrell (V.I. Bar No. 1281)  
1000 Frederiksberg Gade - P.O. Box 756  
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[cperrell@dtflaw.com](mailto:cperrell@dtflaw.com)

Attorneys for Fathi Yusuf and United Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of March, 2018, I caused the foregoing **Reply To Hamed's Opposition To Motion To Strike Hamed Amended Claim Nos. 142 & 143**, which complies with the page or word limitation set forth in Rule 6-1(e), to be served upon the following via the Case Anywhere docketing system:

Joel H. Holt, Esq.  
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Quinn House - Suite 2  
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Carl J. Hartmann, III, Esq.  
5000 Estate Coakley Bay – Unit L-6  
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Mark W. Eckard, Esq.  
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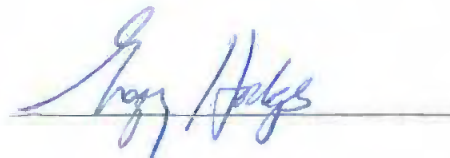
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The Honorable Edgar D. Ross  
E-Mail: [edgarrossjudge@hotmail.com](mailto:edgarrossjudge@hotmail.com)

and via U.S. Mail to:

The Honorable Edgar D. Ross  
Master  
P.O. Box 5119  
Kingshill, VI 00851

Alice Kuo  
5000 Estate Southgate  
Christiansted, VI 00820



# **Exhibit 24**


IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

WALEED HAMED, as Executor of the	)	
Estate of MOHAMMAD HAMED,	)	
	)	
Plaintiff/Counterclaim Defendant,	)	CIVIL NO. SX-12-CV-370
v.	)	
	)	ACTION FOR INJUNCTIVE
FATHI YUSUF and UNITED CORPORATION,	)	RELIEF, DECLARATORY
	)	JUDGMENT, AND
Defendants/Counterclaimants,	)	PARTNERSHIP DISSOLUTION,
v.	)	WIND UP, AND ACCOUNTING
	)	
WALEED HAMED, WAHEED HAMED,	)	
MUFEED HAMED, HISHAM HAMED, and	)	
PLESSEN ENTERPRISES, INC.,	)	
	)	
<u>Additional Counterclaim Defendants.</u>	)	Consolidated With
	)	
WALEED HAMED, as Executor of the	)	
Estate of MOHAMMAD HAMED,	)	
	)	CIVIL NO. SX-14-CV-287
Plaintiff,	)	
v.	)	ACTION FOR DAMAGES AND
	)	DECLARATORY JUDGMENT
UNITED CORPORATION,	)	
	)	
<u>Defendant.</u>	)	
	)	
WALEED HAMED, as Executor of the	)	
Estate of MOHAMMAD HAMED,	)	CIVIL NO. SX-14-CV-278
	)	
Plaintiff,	)	ACTION FOR DEBT AND
v.	)	CONVERSION
	)	
FATHI YUSUF,	)	
	)	
<u>Defendant.</u>	)	

YUSUF’S OPPOSITION TO HAMED’S MOTION TO COMPEL  
AS TO HAMED CLAIM – H-142 REGARDING HALF-ACRE IN TUTU

~~fully set forth herein verbatim and submit that because there is a pending Motion to Strike, the requirement for a response should be stayed pending the resolution.~~

~~See **Exhibit A** - United's Initial Response to Interrogatory No. 21.~~

 ~~Therein, Yusuf and United specifically incorporated by reference as if fully set forth therein verbatim their Motion to Strike Claim H-142, which further elaborated upon the documentation relating to this parcel. The Motion to Strike also referenced the 8<sup>th</sup> Bi-Monthly Report. Specifically, the Motion to Strike provided:~~

~~At page 5 and 6 of the Liquidating Partner's Eighth Bi-Monthly Report filed on May 30, 2016, Yusuf described this purported claim in far greater detail. See Liquidating Partner's Eighth Bi-Monthly Report attached as **Exhibit 1** at page 5-6. For the Master's convenience, Defendants also provide a copy of the Warranty Deed to Plessen Enterprises, Inc. ("Plessen") dated July 26, 2006 and recorded on August 24, 2006 attached as **Exhibit 2**, a copy of the Mortgage dated August 24, 2006 from Plessen to United in the amount of \$330,000 attached as **Exhibit 3**<sup>1</sup>, and a copy of~~

~~<sup>1</sup> Note that this Mortgage was signed by Waleed Hamed, the current plaintiff in these consolidated cases, on behalf of Plessen.~~

~~the Deed In Lieu Of Foreclosure dated October 23, 2008 and recorded on March 24, 2009 from Plessen to United attached as **Exhibit 4**.<sup>2</sup>~~

~~<sup>2</sup> Note that this Deed In Lieu Of Foreclosure was signed by Mohammad Hamed, the original plaintiff in these consolidated cases, on behalf of Plessen.~~

~~See **Exhibit B** - Motion to Strike with Exhibits. Further, the 8<sup>th</sup> Bi-Monthly report provided:~~

~~already been provided and then attempting to seek to compel is improper. United respectfully requests that Hamed's Motion be denied.~~

Respectfully submitted,

**DUDLEY NEWMAN FEUERZEIG LLP**

**DATED:** November 4, 2019

By: /s/Charlotte K. Perrell  
**GREGORY H. HODGES** (V.I. Bar No. 174)  
**CHARLOTTE K. PERRELL** (V.I. Bar No. 1281)  
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[cperrell@dnfvi.com](mailto:cperrell@dnfvi.com)

Attorneys for Fathi Yusuf and United Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of November, 2019, I caused the foregoing **Yusuf's Opposition to Hamed's Motion to Compel as to Hamed Claim – H-142 – Half Acre in Tutu** which complies with the page and word limitations of Rule 6-1(e), to be served upon the following via the Case Anywhere docketing system:

Joel H. Holt, Esq.  
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2132 Company Street  
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The Honorable Edgar D. Ross  
Email: [edgarrossjudge@hotmail.com](mailto:edgarrossjudge@hotmail.com)

\_\_\_\_\_/s/Charlotte K. Perrell\_\_\_\_\_



# **Exhibit 25**

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

**WALEED HAMED**, as the Executor of the Estate of MOHAMMAD HAMED,  
*Plaintiff/Counterclaim Defendant,*

vs.

**FATHI YUSUF and UNITED CORPORATION**

*Defendants and Counterclaimants.*

vs.

**WALEED HAMED, WAHEED HAMED, MUFEEED HAMED, HISHAM HAMED, and PLESSEN ENTERPRISES, INC.,**

*Counterclaim Defendants,*

---

**WALEED HAMED**, as the Executor of the Estate of MOHAMMAD HAMED, *Plaintiff,*

vs.

**UNITED CORPORATION,** *Defendant.*

---

**WALEED HAMED**, as the Executor of the Estate of MOHAMMAD HAMED, *Plaintiff*

vs.

**FATHI YUSUF,** *Defendant.*

---

**FATHI YUSUF,** *Plaintiff,*

vs.

**MOHAMMAD A. HAMED TRUST,** *et al,*

*Defendants.*

---

**KAC357 Inc.,** *Plaintiff,*

vs.

**HAMED/YUSUF PARTNERSHIP,**

*Defendant.*

**Case No.: SX-2012-CV-370**

**ACTION FOR DAMAGES,  
INJUNCTIVE RELIEF AND  
DECLARATORY RELIEF**

**JURY TRIAL DEMANDED**

Consolidated with

**Case No.: SX-2014-CV-287**

Consolidated with

**Case No.: SX-2014-CV-278**

Consolidated with

**Case No.: ST-17-CV-384**

Consolidated with

**Case No.: ST-18-CV-219**

**DECLARATION**

1. The undersigned is an attorney admitted to the Practice of law in the USVI, Bar No. 48.
2. The Declarant has extensive experience with regard to USVI title and the recording of documents in the USVI, having acted as co-counsel for Merrill Lynch Private Capital in its repossession and sale of parcels, waters systems, condominiums, easements, rights-of-way and other interests in *Merrill Lynch Private Capital v. Lovenlund Resort Associates, et al.*, Civ. No. 88-402 (DVI). See, e.g., <http://www.federal-litigation.com/Cases/MahoganyRun.html>
3. This Declaration is true and accurate to the best of my knowledge, and is made under oath.
4. I have reviewed the documents related to the title of the parcel referred to in this action as the Tutu Half Acre. I have also reviewed and identified the parcel on the USVI GIS system to verify that I was examining as to the correct parcel.
5. As of the date of this declaration, record title is held, pursuant to a 2008 Deed in Lieu of Foreclosure, by the United Corporation.
6. There are no other recorded documents that are contrary to or interrupt said title.

**Dated:** December 21, 2019



**Carl J. Hartmann III, Esq.**

*Co-Counsel for Plaintiff*

5000 Estate Coakley Bay, L6

Christiansted, VI 00820

Email: [carl@carlhartmann.com](mailto:carl@carlhartmann.com)

Tele: (340) 719-8941

# **Exhibit 26**

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

**MOHAMMAD HAMED, BY HIS  
AUTHORIZED AGENT WALEED HAMED,**

PLAINTIFF/COUNTERCLAIM DEFENDANT,

v.

**FATHI YUSUF AND UNITED  
CORPORATION,**

DEFENDANTS/COUNTERCLAIMANTS,

v.

**WALEED HAMED, WAHEED HAMED,  
MUFEEED HAMED, HISHAM HAMED,  
AND PLESSEN ENTERPRISES, INC.,**

COUNTERCLAIM DEFENDANTS.

---

**WALEED HAMED, AS EXECUTOR OF THE  
ESTATE OF MOHAMMAD HAMED,**

PLAINTIFF,

v.

**UNITED CORPORATION,**

DEFENDANT.

---

**MOHAMMAD HAMED,**

PLAINTIFF,

v.

**FATHI YUSUF,**

DEFENDANT.

Civil No. SX-12-CV-370

**ACTION FOR INJUNCTIVE  
RELIEF, DECLARATORY  
JUDGMENT, PARTNERSHIP  
DISSOLUTION, WIND UP, and  
ACCOUNTING**

CONSOLIDATED WITH

Civil No. SX-14-CV-287

**ACTION FOR DAMAGES and  
DECLARATORY JUDGMENT**

CONSOLIDATED WITH

Civil No. SX-14-CV-378

**ACTION FOR DEBT and  
CONVERSION**

**ORDER**

**EXHIBIT**

**26**

~~also April 25, 2013 Memorandum Opinion and Order (“Yusuf admitted in the *Idheileh* action that Plaza Extra was a distinct entity from United, although the ‘partners operated Plaza Extra under the corporate name of United Corp.’”); *The United States of America v. United Corporation, et al.*, case no. 1:05-cr-15 (United was named as a defendant as “United Corporation d/b/a Plaza Extra”). Here, similar to United and Yusuf’s accusation that Hamed failed to provide any evidence in support of Hamed’s argument that the conveyance was to United operating as the Partnership and not to United operating as a separate distinct entity from the Partnership, United and Yusuf also failed to provide any evidence to support their argument that the conveyance was to United operating as a separate distinct entity from the Partnership, and not United operating as the Partnership.<sup>7</sup> Third, Hamed Claim No. H-142 is not barred by the Limitation Order because the transaction relevant here—from Plessen to United, assuming *arguendo* it was United operating as the Partnership—did not occur until October 23, 2008, which is after September 17, 2006, the limitation date set forth in the Limitation Order. As such, the Master will deny Yusuf’s motion to strike as to Hamed Claim No. H-142.<sup>8</sup> Furthermore, as United and Yusuf admitted in their previous filings as to Hamed~~

<sup>7</sup> United and Yusuf noted in their motion that Waleed Hamed signed the mortgage and the deed in lieu of foreclosure on behalf of Plessen. However, United and Yusuf failed to explain why this fact supports their claim that the conveyance was to United operating as a separate distinct entity from the Partnership, and not United operating as the Partnership.

<sup>8</sup> The Master will nevertheless briefly address the “claim v. partnership asset” argument raised by Hamed in his opposition. The Limitation Order did not make the distinction between claims or partnership assets. In the Limitation Order, the Court ordered that “that the accounting in this matter, to which each partner is entitled under 26 V.I.C § 177(b), conducted pursuant to the Final Wind Up Plan adopted by the Court, shall be limited in scope to consider only those claimed credits and charges to partner accounts, within the meaning of 26 V.I.C § 71(a), based upon transactions that occurred on or after September 17, 2006.” *Hamed*, 2017 V.I. LEXIS \*44-45. See *supra*, footnotes 2-3.

Title 26 V.I.C. §177(b) provides: “Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partners accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account but excluding from the calculation charges attributable to an obligation for which the partner is not personally liable under section 46 of this chapter.”

Title 26 V.I.C. §71(a) provides: Each partner is deemed to have an account that is: (1) credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes

---

**CONCLUSION**

Based on the foregoing, the Master will grant in part and deny in part Yusuf's motion to strike. Accordingly, it is hereby:

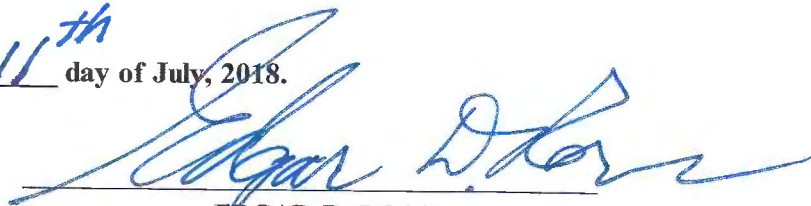
**ORDERED** that Yusuf's motion to strike as to Hamed Claim No. H-142 is **DENIED**.

It is further:

**ORDERED** that Parties may continue with discovery in connection with Hamed Claim No. H-142. Discovery in connection with Hamed Claim No. H-142 shall be completed no later than **August 10, 2018**. And it is further:

**ORDERED** that Yusuf's motion to strike as to Hamed Claim No. H-143 is ~~**GRANTED**~~. Hamed Claim No. H-143 shall be and is hereby ~~**STRICKEN**~~.

**DONE** and so **ORDERED** this 11<sup>th</sup> day of July, 2018.



EDGAR D. ROSS  
Special Master

# **Exhibit 27**



IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

MOHAMMED HAMED by His Authorized )  
Agent WALEED HAMED, )  
)  
Plaintiff/Counterclaim Defendant, )  
)  
vs. ) Case No. SX-12-CV-370  
)  
FATHI YUSUF and UNITED CORPORATION, )  
)  
Defendants/Counterclaimants, )  
)  
vs. )  
)  
WALEED HAMED, WAHEED HAMED, MUFEED )  
HAMED, HISHAM HAMED, and PLESSSEN )  
ENTERPRISES, INC., )  
)  
Additional Counterclaim Defendants.)

**THE VIDEOTAPED ORAL DEPOSITION OF FATHI YUSUF**

was taken on the 2nd day of April, 2014, at the Law Offices  
of Adam Hoover, 2006 Eastern Suburb, Christiansted,  
St. Croix, U.S. Virgin Islands, between the hours of  
9:17 a.m. and 4:16 p.m., pursuant to Notice and Federal  
Rules of Civil Procedure.

---

Reported by:

Cheryl L. Haase  
Registered Professional Reporter  
Caribbean Scribes, Inc.  
2132 Company Street, Suite 3  
Christiansted, St. Croix U.S.V.I.  
(340) 773-8161

**EXHIBIT**

**27**

**APPEARANCES****A-P-P-E-A-R-A-N-C-E-S****For the Plaintiff/Counterclaim Defendant:**

Law Offices of  
Joel H. Holt  
2132 Company Street  
Suite 2  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

By: Joel H. Holt

and

Law Offices of  
Carl Hartmann, III  
5000 Estate Coakley Bay, #L6  
Christiansted, U.S. Virgin Islands 00820

By: Carl Hartmann, III

**For the Defendant/Counterclaimants**

Law Offices of  
Dudley, Topper & Feuerzeig  
P.O. Box 756  
Charlotte Amalie, St. Thomas  
U.S. Virgin Islands 00804

By: Gregory H. Hodges

and

Law Offices of  
Nizar A. DeWood  
2006 Eastern Suburbs, Suite 101  
Christiansted, VI 00830

By: Nizar A. DeWood

Cheryl L. Haase  
(340) 773-8161

**APPEARANCES**1  
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25**For Waleed Hamed:**

Law Offices of  
Eckard, P.C.  
P.O. Box 24849  
Christiansted, VI 00824

By: Mark W. Eckard

**For Fathi Yusuf:**

Law Offices of  
K. Glenda Cameron  
2006 Eastern Suburb, Suite 101  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

By: K. Glenda Cameron

**Also Present:**

Josiah Wynans, Videographer  
Kim Japinga  
Waleed Hamed  
Hisham Hamed  
Mufeed Hamed  
Maher Yusuf

Cheryl L. Haase  
(340) 773-8161

FATHI YUSUF -- DIRECT

1 ~~THE VIDEOGRAPHER: Going off record at 10:57.~~

2 (Short recess taken.)

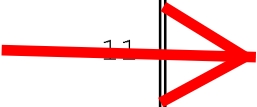
3 THE VIDEOGRAPHER: Going back on record at  
4 11:12.

5 Q. (Mr. Holt) Mr. Yusuf, I think you'd finished with  
6 your last answer.

7 A. I think so, yes.

8 Q. Okay. But if you recall something that you wanted  
9 to say, always feel free to say it. Okay?

10 ~~A. Thank you very much for the offer.~~



11 Q. You know, I asked a question, but I asked it  
12 wrong, but didn't there come a time when you and Mohammad  
13 Hamed sat down within the last year and a half and tried to  
14 resolve things by -- he talked about it a little bit in his  
15 deposition about the giving of properties and things of that  
16 nature.

17 Do you recall that?

18 A. Much more than a year and a half.

19 Q. Can you tell me about that?

20 A. Can you come up with question, or you want to come  
21 up with a story?

22 Q. I can -- I actually like the way you tell the  
23 story, but I'll tell you what I've -- what I've heard, and  
24 then you can correct what I've heard.

25 That the two of you met to try to resolve all

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HAMD601374

**FATHI YUSUF -- DIRECT**

1 the differences between you and yourself, the Hamed family,  
2 and Wally in particular.

3 **A.** Yes.

4 **Q.** And that he offered two or three properties, and  
5 you agreed to take one or something like that. And, you  
6 know, I never really quite --

7 **A.** I can comment on that.

8 **Q.** Okay. Please.

9 **A.** I -- we met, and after I tell him my story of what  
10 I know at that time, he say, What do you want? I say, I'll  
11 take two property for what I discover so far. He say,  
12 Which? I give him the description of the property, one in  
13 Jordan and one at Tutu Park. The one in Jordan, I pay one  
14 million two, approximate. The one at Tutu Park, I paid  
15 1 million for it. 1,000,350, I believe. It's two pieces at  
16 Tutu Park, but we call it one piece. One-half an acre as an  
17 entrance, and 9.31 as the major piece of property.

18 He say, You can have it. And after they say  
19 it, the man come up front after I tell him my story, and he  
20 was very generous to say, You can have it. And we kept  
21 talking, as a family. After all, we are family, as you  
22 mentioned over and over in your correspondence. We are  
23 family at that time, and we have a very high respect for  
24 each other, even though, up to now we still have high  
25 respect to each other, and I told him, No, one is enough.

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## FATHI YUSUF -- DIRECT

1 ~~But we kept talking.~~

2 ~~And when we kept talking, you know, whatever~~

3 ~~what he was saying, it doesn't add up.~~ So I went to the

4 store, I take a look, and I analyze the bank statement of

5 what he was saying. I say, Man, after that, this man would

6 not even tell me the truth, unfortunate? So immediately I

7 told Wally, Do me a favor, Wally. You was present. Go back

8 to your father and tell him, No, I wanted the two piece of

9 property.

10 That's the same day. Not even, as soon as we

11 get to the store, it take me about half an hour to take a

12 look of what he was talking about. Unfortunate, I have

13 found it's impossible what he was talking about, it could be

14 true. And I say, Come on, man. You know? And -- and he

15 went home that night. He told his father. The next day he

16 come to work, I say, Did you tell your father? He said,

17 Yes. I said, Fine.

18 That's it.

19 Q. Okay. You done?

20 A. Done.

21 ~~Q. Okay. On the property in Jordan, you say that~~

22 ~~there was 1.2 million paid for that. I take it that was~~

23 ~~purchased with the money, joint money from the supermarket?~~

24 A. Money, yes. I own 50 percent, they own 50.

25 ~~Q. Okay. And did you ever get a deed to that~~

**CERTIFICATE****C-E-R-T-I-F-I-C-A-T-E**

1  
2  
3 I, CHERYL L. HAASE, a Registered Professional Reporter  
4 and Notary Public No. NP-158-03 for the U.S. Virgin Islands,  
5 Christiansted, St. Croix, do hereby certify that the above  
6 and named witness, FATHI YUSUF, was first duly sworn to  
7 testify the truth; that said witness did thereupon testify  
8 as is set forth; that the answers of said witness to the  
9 oral interrogatories propounded by counsel were taken by me  
10 in Stenotype and thereafter reduced to typewriting under my  
11 personal direction and supervision.

12 I further certify that the facts stated in the caption  
13 hereto are true; and that all of the proceedings in the  
14 course of the hearing of said deposition are correctly and  
15 accurately set forth herein.

16 I further certify that I am not counsel, attorney or  
17 relative of either party, nor financially or otherwise  
18 interested in the event of this suit.

19 IN WITNESS WHEREOF, I have hereunto set my hand as such  
20 Certified Court Reporter on this the 3rd day of May, 2014,  
21 at Christiansted, St. Croix, United States Virgin Islands.

22 \_\_\_\_\_  
23 Cheryl L. Haase, RPR  
24 My Commission Expires 2/10/16  
25

# **Exhibit 28**



IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX

MOHAMMED HAMED by His Authorized )  
Agent WALEED HAMED, )  
)  
Plaintiff/Counterclaim Defendant, )  
)  
vs. ) Case No. SX-12-CV-370  
) Volume 2  
FATHI YUSUF and UNITED CORPORATION, )  
)  
Defendants/Counterclaimants, )  
)  
vs. )  
)  
WALEED HAMED, WAHEED HAMED, MUFEED )  
HAMED, HISHAM HAMED, and PLESSSEN )  
ENTERPRISES, INC., )  
)  
Additional Counterclaim Defendants.)

**THE VIDEOTAPED ORAL DEPOSITION OF MOHAMMAD HAMED**

was taken on the 1st day of April, 2014, at the Law Offices  
of Adam Hoover, 2006 Eastern Suburb, Christiansted,  
St. Croix, U.S. Virgin Islands, between the hours of  
9:12 a.m. and 5:13 p.m. pursuant to Notice and Federal Rules  
of Civil Procedure.

Reported by:

Cheryl L. Haase  
Registered Professional Reporter  
Caribbean Scribes, Inc.  
2132 Company Street, Suite 3  
Christiansted, St. Croix U.S.V.I.  
(340) 773-8161

**EXHIBIT**  
**28**

**APPEARANCES****A-P-P-E-A-R-A-N-C-E-S****For the Plaintiff/Counterclaim Defendant:**

Law Offices of  
Joel H. Holt  
2132 Company Street  
Suite 2  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

By: Joel H. Holt

and

Law Offices of  
Carl Hartmann, III  
5000 Estate Coakley Bay, #L6  
Christiansted, U.S. Virgin Islands 00820

By: Hartmann, III

**For the Defendant/Counterclaimants**

Law Offices of  
Dudley, Topper & Feuerzeig  
P.O. Box 756  
Charlotte Amalie, St. Thomas  
U.S. Virgin Islands 00804

By: Gregory H. Hodges

and

Law Offices of  
Nizar A. DeWood  
2006 Eastern Suburbs, Suite 101  
Christiansted, VI 00830

By: Nizar A. DeWood

Cheryl L. Haase  
(340) 773-8161

**HAMD600051**

**APPEARANCES**

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**For Waleed Hamed:**

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P.O. Box 24849  
Christiansted, VI 00824

By: Mark W. Eckard

**For Fathi Yusuf:**

Law Offices of  
K. Glenda Cameron  
2006 Eastern Suburb, Suite 101  
Christiansted, St. Croix  
U.S. Virgin Islands 00820

By: K. Glenda Cameron

**Also Present:**

Josiah Wynans, Videographer  
Hatim Yusuf, Interpreter  
Kim Japinga  
Waleed Hamed  
Hisham Hamed  
Mufeed Hamed  
Maher Yusuf  
Fathi Yusuf

MOHAMMAD HAMED -- DIRECT

1 ~~Q. (Mr. Hodges) Okay. In fact, your son Waleed has~~  
2 never explained the -- the facts to you, has he?

3 MR. HARTMANN: Object. Asked and answered.

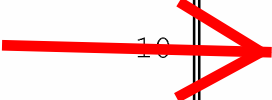
4 THE INTERPRETER: Yes.

5 Q. (Mr. Hodges) Okay.

6 THE INTERPRETER: "La," meaning he did not.  
7 He did not, is the way I understand it.

8 MR. DEWOOD: Did not what?

9 ~~MR. HODGES: He did not explain it.~~

10  Q. (Mr. Hodges) Mr. Hamed, given the 25-plus years  
11 that your -- you and Mr. Yusuf have -- have worked together  
12 in the store, why haven't you taken the time to make sure  
13 you understand what the facts are with respect to this  
14 \$2.7 million dispute?

15 MR. HARTMANN: Object as to form. Object,  
16 argumentative.

17 A. (Speaking in Arabic.) Work, work, work, work, day  
18 and night.

19 THE INTERPRETER: Okay. I can only translate  
20 or interpret what he said.

21 He's saying -- he said that they come from  
22 the same area, they are farmers, and that, you know, he was  
23 responsible for bringing them here. When they arrived here,  
24 they came to his home. He welcomed them, and -- and helped  
25 them out, and -- and over the years, he established a

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(340) 773-8161

HAMD600186

**MOHAMMAD HAMED -- DIRECT**

1 business, a grocery business, and when he made some money,  
2 there came a time when -- when Mr. Fathi Yusuf was going to  
3 build a shopping center. It's a long story, and that, you  
4 know, most of their time has been working, working, and  
5 there's really -- there hasn't been a time that they could  
6 sit and talk.

7 **Q. (Mr. Hodges)** In the past two years, isn't that  
8 right?

9 **A.** (Speaking in Arabic.) Okay. Go ahead.

10 **THE INTERPRETER:** He said, I begged him to  
11 sit and -- and -- and -- so we can finish this, and in  
12 Jordan, we -- we -- we, in my house, we met, and I was  
13 giving him -- (speaking in Arabic).

14 He asked for two pieces of --

15 **A.** Just one I want.

16 **THE INTERPRETER:** -- he had asked for two  
17 pieces of property in Jordan. He told him, I'd sign for --  
18 for them, no problem. Later, he came -- meaning Mr. Fathi  
19 Yusuf -- and told him, You've kicked me in my stomach. It's  
20 a term of, in other words, he was willing to accept, as I  
21 understand, one piece of property instead of two. (Speaking  
22 in Arabic.)

23 Next day, he came back and asked for the  
24 other piece of property.

25 ~~**Q. (Mr. Hodges)** But my question, Mr. Hamed, is that~~

**CERTIFICATE****C-E-R-T-I-F-I-C-A-T-E**

1  
2  
3 I, CHERYL L. HAASE, a Registered Professional Reporter  
4 and Notary Public No. NP-158-03 for the U.S. Virgin Islands,  
5 Christiansted, St. Croix, do hereby certify that the above  
6 and named witness, MOHAMMAD HAMED, was first duly sworn to  
7 testify the truth; that said witness did thereupon testify  
8 as is set forth; that the answers of said witness to the  
9 oral interrogatories propounded by counsel were taken by me  
10 in Stenotype and thereafter reduced to typewriting under my  
11 personal direction and supervision.

12 I further certify that the facts stated in the caption  
13 hereto are true; and that all of the proceedings in the  
14 course of the hearing of said deposition are correctly and  
15 accurately set forth herein.

16 I further certify that I am not counsel, attorney or  
17 relative of either party, nor financially or otherwise  
18 interested in the event of this suit.

19 IN WITNESS WHEREOF, I have hereunto set my hand as such  
20 Certified Court Reporter on this the 21st day of April,  
21 2014, at Christiansted, St. Croix, United States Virgin  
22 Islands.

23 \_\_\_\_\_  
24 Cheryl L. Haase, RPR  
25 My Commission Expires 2/10/16

# **Exhibit 29**

# EXHIBIT O

*[Exhibit to Existing Yusuf Document]*

**EXHIBIT  
29**





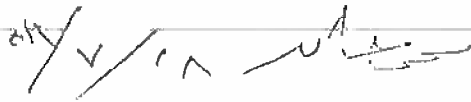
## إقرار وتعهد خطي

أنا الموقع أدناه محمد عبد القادر اسعد حامد أردني الجنسية واحمل الرقم الوطني (٩٣٥١٠١١٩٧٥) وحيث أنني امتهلك حصصا مقدارها (٢٤١٢٠) حصة من أصل (٤٦٨٠٠) حصة إجمالي الحصص في قطعة الأرض رقم (٣١٠) حوض (٦) حويجر قرية طبربور من أراضي شرق عمان أقر وأنا بكامل قواي العقلية بأنني قد قبضت ثمن حصتي في قطعة الأرض المذكورة من السيد فتحي يوسف محمد يوسف أردني الجنسية ويحمل الرقم الوطني (٩٤١١٠١٣٤٦٠) وبذلك يحق للسيد فتحي يوسف المذكور بالتصرف بكامل حصصي تصرف المالك بملكه اعتبارا من تاريخ توقيع هذا الإقرار وأنني أتعهد بعدم إجراء أية تصرفات قانونية في حصصي المباعة من إجارة و/أو رهن و/أو بيع و/أو أية تصرفات و/أو عقود منقعة مع الغير وأتعهد بنقل ملكية الحصة المباعة لدى دائرة الأراضي المختصة بالسرعة الممكنة و/أو تحرير وكالة غير قابلة للعزل للسيد فتحي أو للغير الذي يراه السيد فتحي في حينه مناسبا وأتعهد كذلك بمراجعة المحاكم و/أو الدوائر الرسمية و/أو الأهلية بما يخدم مصلحة المشتري السيد فتحي وحسب ما يراه مناسبا وأن جميع الحقوق المالية و/أو التعويضات التي قد تنشأ عن الاستملاك الواقع على قطعة الأرض موضوع هذا الإقرار والذي قد تحكم به المحكمة هي حقا مكتسبا لصالح السيد فتحي وأنني أوصي أهلي وورثتي الشرعيين من بعدي بعدم معارضة السيد فتحي في الأرض المذكورة وذلك لتعلق حقه بها وقد قمت بالتوقيع على هذا الإقرار على ثلاث نسخ أصلية وأنا بكامل قواي العقلية المعتمدة شرعا وقانونا واسقط حقي بالادعاء بكذب الإقرار و/أو الظروف التي أحاطت بتنظيم هذا الإقرار و/أو أي دفع ناشئ و/أو متعلق بهذا الإقرار و/أو تطبيقاته.

تحريرا بتاريخ ٢٠١١/٧/١٨.

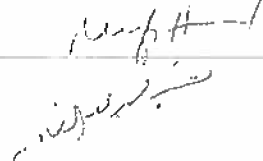
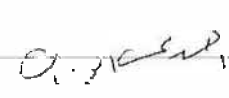
المقر بما فيه

الاسم الرباعي : 

التوقيع : 


شاهد

شاهد



المستشارون  
للمحاماة والقانون  
COUNCILORS  
for Advocating and Law

المستشارون  
للمحاماة والقانون  
نظام أممي ويمرر تحت تصديرا في  
اليوم الثاني من شهر محرم لعام ١٤٣٢ هـ  
المحامي 

Handwritten signature and date: ٧٨٧٧

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المبلغ	المبلغ (2٥)	رقم	رقم	رقم	رقم	رقم	اسم البرنامج
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اسم البرنامج : الاسم

التاريخ : 2011/07/11 : التاريخ



الوزارة العامة للتعليم والعلوم  
 والدراسات والبحوث  
 الرياض



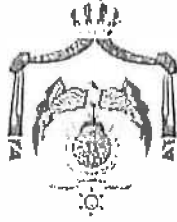
## وكالة خاصة

أنا / نحن الموقع ، إمامك ، بديله ، ربيع محمد رشيد الأدار ، سيد رشيد رشدي برسان رشدي برسان  
 قد وكالت / وكنا وأقدم مقام نفس المحامي احمد محمود قاسم  
 مجتمعين ومنفردين لينوب عني / عنا بتقديم وإقامة الدعوى و المرافعة والمدافعة والمحكمة والمخاصمة في الدعوى المتكونة او التي  
 ستكون بين وبين  
 والتي موضوعها

وذلك أمام ..... و/ أو أية محاكم أو دوائر أو مجالس أو هيئات تحكيم أو أية جهات أخرى ذات اختصاص في الأردن والخارج على اختلاف أنواعها ووظائفها ودرجاتها واعترافا واستنادا وتمييزا واعادة محاكمة وتصحيحا ومحكمة العدل العليا والمحاكم الادارية و لآخر درجات المحاكمة ، بما في ذلك تقديم الدعوى وتوقيع وتقديم كافة ما يختص بها من لوائح واستدعاءات وطلبات وادعاءات وأوراق ومستندات وادعاء بالحق الشخصي. ولينوب عني بالتقيام بكافة الاجراءات الادارية والقضائية بالخصوص المؤكل به وفي الدعوى المتقابلة وفي دفع الرسوم والنفقات بما في ذلك توقيع وتقديم وملازمة أي ادعاء أو طلب أو استدعاء أو ائذار عدلي أو أي مستند على الامتثال وما يلزم من أوراق ولوائح ومستندات مهما كان نوعها وتسمية البينة وحصرها والظعن بينة الخصم وشهوده وبالتبليغ والتبليغ والكشف وانتداب الخبراء وعزلهم والظعن بينهم وبمقراتهم والموافقة على التحكيم وتعين المحكم والمحكمين والمميزين وعزلهم والمرافعة أمامهم وباعتراض الغير في الدخول في الدعوى كشخص ثالث و طلب ادخال أي شخص له علاقة بالدعوى كمدعي أو مدعى عليه أو كشخص ثالث وبطلب الحجز التحفظي و/ أو التنفيذ وتثبيته وفكته واليمين وردد وطلب نقل الدعوى ورد القضاء والمحكمين والخبراء وبالصلح والافترار والابراء ومراجعة دوائر التنفيذ والمرافعة أمامها وبطلب إعلان الإفلاس و الموافقة على المصالحة والقيام بكل ما يتعلق بطابق الافلاس دون تعييد وتغيب أي قرار أو أمر أو إتفاق يصدر أو يتفق عليه وقبول التسوية ورفضها وبطلب الحبس والتخليه و باستئناف القرارات التي تصدر عن هذه الدوائر و بقبض و بادستلام ما يحكم أو يقرر أو يجري الإتفاق عليه وبإعطاء وصولات نافذة وفعالة بذلك وبكل ما يجوز التوكيل به قانوناً ذكر أو لم يذكر ولو كان ذكرد مشروطا وبتوكيل الغير بجميع ما وكل به أو ببعضه وعزل من يد كل المرة بعد المرة وكافة مفوضه لرأيه وقوله وفعله.

تحريراً في هذا اليوم ١١ / ١١ / ٢٠١٨ من شهر تشرين الثاني سنة ١٤٤٠ هـ  
 اصديق على صحة التوكيل والتوقيع في  
 المحامي

الموكل / الموكلون



المملكة الأردنية الهاشمية  
صورة قيد تسجيل الأموال غير المنقولة

رقم القيد : 2011-EA-17377  
اسم الحوض : حويج  
نوع الأرض : ملك

المديرية : اراض شرق عمان  
القرية : طبربور  
اسم الحر :

يحتوي هذا القيد على 1 (بنحة)

رقم القطعة : 310	رقم الحسي : 0		
رقم الحوض : 6	رقم اللوحة : 14		
رقم الشقة : 000	مجموع الحصص : 46800		
القيمة التسجيلية : 65.844	مقياس الرسم : 1/2500		
رقم بيان التغيير : --			
<p>المساحة رقما : 833.000 متر مربع 39 دونم</p> <p>المساحة كتابية : تسعة وثلاثون دونم وثمانمائة وثلاثة وثلاثون مترمقط</p>			
<p>يوجد ونوعات</p>			
الرقم الوطني	اسم المالك	الجنسية	الحصص
9411013460 *	فخر يوسف يوسف	الأردنية	22680
	محمد عبدالقادر احمد حامد	الأردنية	24120

إن الأموال غير المنقولة المبينة اعلاه مسجلة بأسماء المالكين المذكورين وقد اعطي هذا السند شهادة بذلك بتاريخ 2011/07/13 واستوفيت الرسوم بموجب الوفول رقم 864195 تاريخ 2011/05/23

مدير تسجيل : اراض شرق عمان

\* : المالك المشار اليه بإشاره (\*) هو الشخص المعنى بهذا السند

حاصر بانه الزرة : 17377-YOKP6G

EXHIBIT 10 نظام سند التسجيل : لبياء نهاد حسين نشوان

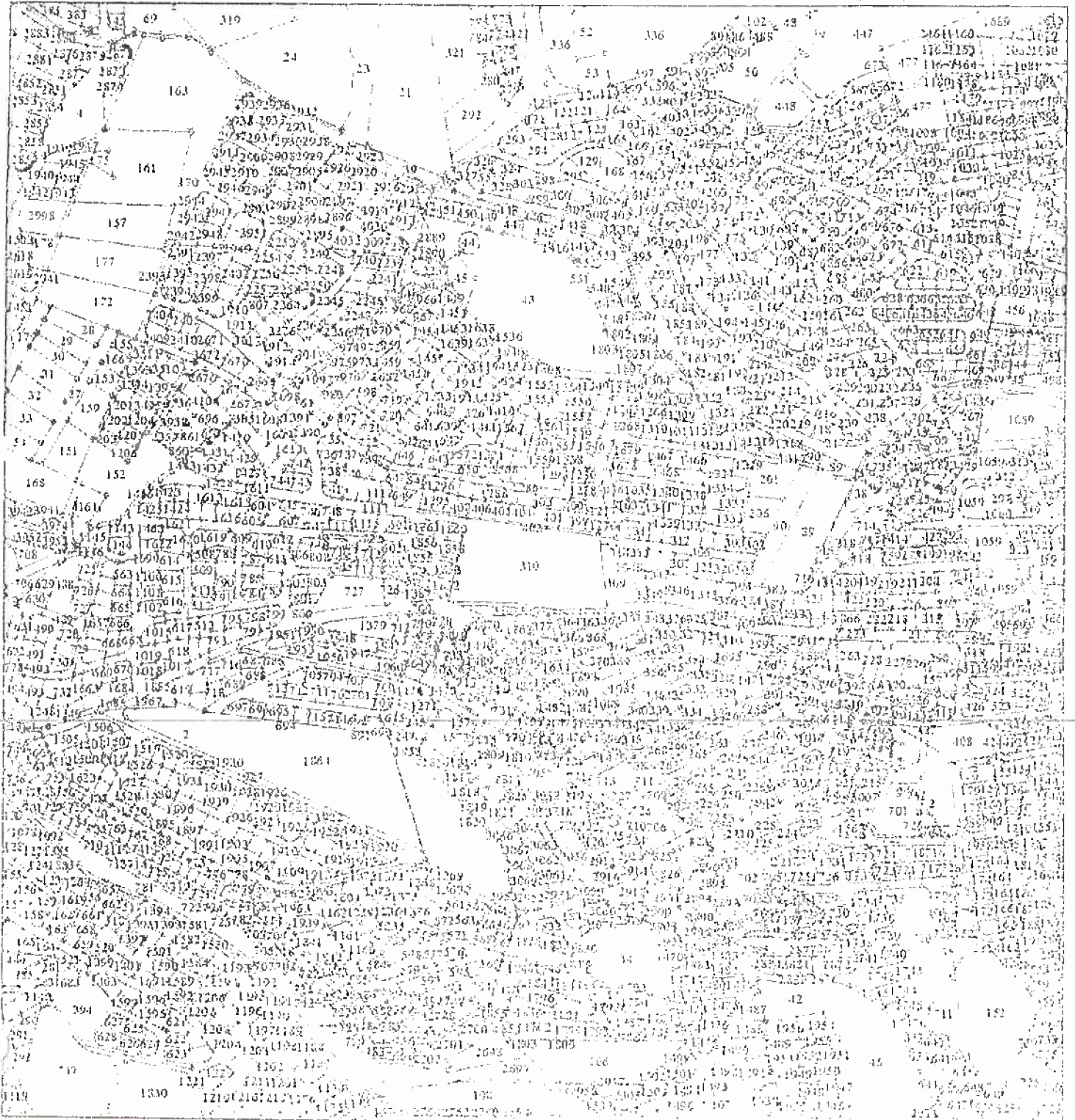
المملكة الأردنية الهاشمية  
دائرة الأراضي والمساحة  
مخطط أراضي



رقم الوصل: للعمل الرسمي  
تاريخ الاصدار: 12-7-2011  
تاريخ الوصل: 12-7-2011

الحوض: حريجر (6)  
الحي: -  
رقم القطعة: 310

محافظة العاصمة  
اراضي شرق عمان  
القرية: طبربور (129)



الختم و التوقيع

YUSF237901

# **Exhibit 29a**

Jabal Al-Husain  
Sukayna Commercial Complex  
Eastern Entrance, 1st Floor,  
Office No. 20  
Telefax ( + 962-6 ) 5689459  
Tel. ( + 962-6 ) 5658604  
(For Correspondence Only)  
P. O. B. 343 Zarka 13110 Jordan )  
E-Mail:translationh@nets.com.jo

# دار الترجمة

## TRANSLATION HOUSE

DAR UTTARJAMA

جبل الحسين - مجمع سكيانة التجاري  
المدخل الشرقي - الطابق الاول  
مكتب رقم ٢٠  
تلفاكس ٥٦٨٩٤٥٩ (+٩٦٢-٦)  
تلفون ٥٦٥٨٦٠٤ (+٩٦٢-٦)  
(للمراسلات فقط ص.ب ٣٤٣ الزرقاء ١٣١١٠ الاردن)  
البريد الالكتروني: translationh@nets.com.jo

### Counselors For Advocating and Law

Wasfi Al- Tal Str., Youbeel Circle,  
Al-Kafjy Complex, 2<sup>nd</sup> Entrance, 3<sup>rd</sup> Floor  
Tel. : 009626 5535464/5535414  
Fax : 5535965, P.O.B. 2323 code 11910 Jordan

### Written Declaration and Undertaking

I, the undersigned Mohammad Abdel Qader Asad Hamed, Jordanian nationality, holder of National No. (0933101975), whereas I own 24120 shares out of 46800 shares of the total shares in piece of land No. (310), basin 6, Huwaijer, Tabarbour Village, of east Amman lands, declare, while in full sound mental powers, that I received the price of my share in the mentioned land from Mr. Fathi Yusuf Mohamad Yusuf, Jordanian nationality, holder of National No. (9411 01 3460), hence the said Mr. Fathi has the right to dispose of my shares in full similar to the acts of owner's disposal of his property as of the date of signing this declaration and I undertake not to make any legal disposals in my sold shares such as lease and/or mortgage and/or sale, and and/or any acts and or benefit contracts with third parties and undertake to transfer the ownership of the sold share at the competent Lands Department as soon as possible or execute an irrevocable power of attorney to Mr. Fathi or third parties as deemed appropriate in due course and undertake also to appear before the courts and/or official departments and/or official and/or national departments so as to serve the interest of the buyer Mr. Fathi and as he deems fit and that all the financial rights and/or compensations which may rise out of the expropriation imposed on the piece of land subject of this declaration and which may be adjudged by the court are an acquired right in favour of Mr. Fathi and I recommend my folks and legal heirs after me not to oppose Mr. Fathi in the said land due to his right in it and I have signed this declaration in three originals whilst enjoying my full mental power that are legitimately and legally considered and drop my right to claim the falsehood of the declaration and/or the circumstances surrounding the execution of this declaration and/or any rebut arising from or relating to this declaration and/or its applications.

Executed on 18/7/2011.

Witness	Witness	Declarant,
(Signed)	(Signed)	Quadriple Name: Mohammad Abdel Qader Asad Hamed
		Signature : (Signed)

(Counselors for Advocating & Law organized before me  
and with my knowledge. Executed on: the twelveth of  
July in the year of two thousand and eleven)  
Lawyer : (Signed)

Seal of Counselors for  
Advocating and Law

**EXHIBIT**  
**29a**

**EXHIBIT**

S


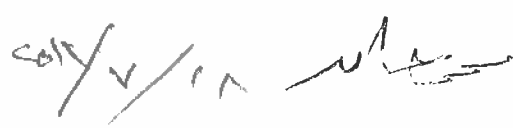
HAMD639549

### إقرار وتعهد خطي

أنا الموقع أدناه محمد عبد القادر اسعد حامد أردني الجنسية واحمل الرقم الوطني (٩٣٥١٠١١٩٧٥) وحيث أنني امتلك حصصاً مقدارها (٢٤١٢٠) حصة من أصل (٤٦٨٠٠) حصة إجمالي الحصص في قطعة الأرض رقم (٣١٠) حوض (٦) حويجر قرية طبربور من أراضي شرق عمان أقر وأنا بكامل قواي العقلية بأنني قد قبضت ثمن حصتي في قطعة الأرض المذكورة من السيد فتحي يوسف محمد يوسف أردني الجنسية ويحمل الرقم الوطني (٩٤١١٠١٣٤٦٠) وبذلك يحق للسيد فتحي يوسف المذكور بالتصرف بكامل حصصي تصرف المالك بملكه اعتباراً من تاريخ توقيع هذا الإقرار وأنني أتعهد بعدم إجراء أية تصرفات قانونية في حصصي المبيعة من إجارة و/أو رهن و/أو بيع و/أو أية تصرفات و/أو عقود منفعة مع الغير وأتعهد بنقل ملكية الحصة المبيعة لدى دائرة الأراضي المختصة بالسرعة الممكنة و/أو تحرير وكالة غير قابلة للعزل للسيد فتحي أو للغير الذي يراه السيد فتحي في حينه مناسباً وأتعهد كذلك بمراجعة المحاكم و/أو الدوائر الرسمية و/أو الأهلية بما يخدم مصلحة المشتري السيد فتحي وحسب ما يراه مناسباً وأن جميع الحقوق المالية و/أو التعويضات التي قد تنشأ عن الاستملاك الواقع على قطعة الأرض موضوع هذا الإقرار والذي قد تحكم به المحكمة هي حقاً مكتسباً لصالح السيد فتحي وأنني أوصي أهلي وورثتي الشرعيين من بعدي بعدم معارضة السيد فتحي في الأرض المذكورة وذلك لتعلق حقه بها وقد قمت بالتوقيع على هذا الإقرار على ثلاث نسخ أصلية وأنا بكامل قواي العقلية المعتبرة شرعاً وقانوناً واسقط حقي بالادعاء بكذب الإقرار و/أو الظروف التي أحاطت بتنظيم هذا الإقرار و/أو أي دفع ناشئ و/أو متعلق بهذا الإقرار و/أو تطبيقاته.

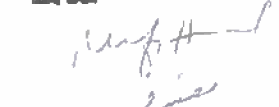


تحريراً بتاريخ ٢٠١١/٧/١٨.

المقر بما فيه

الاسم الرباعي :   
التوقيع :  ٢٠١١/٧/١٨

شاهد

شاهد



المستشارون  
للمحاماة والقانون  
COUNCILORS  
for Advocating and Law

المستشارون  
للمحاماة والقانون

نظم أمامي وبمصرفتي تحريراً في

اليوم التاسع من شهر محرم لعام الفانوسم

المعالي 



# **Exhibit 30**

**Exhibit 30 –****Hamed's Responses to What Yusuf Calls His Counter-Statement of Facts, but which is Actually his Statement of Facts Not in Dispute with Regard to His New Countermotion**

1. In 2011, the Partners agreed to reconcile a \$2,000,000 disparity, which Yusuf discovered Hamed had misappropriated. See **Exhibit A**-Yusuf April 2, 2014 Depo, 78:9-18; 78:18-79:18; **Exhibit B**-Mohammed Hamed April 1, 2014 Depo; 148:1-4; 148:24-149:1; **Exhibit G**-Yusuf's Supplemental Discovery Responses, p.7-8 with Verification .

**Hamed Response:**

As set forth in the Reply, neither Hamed's testimony nor Yusuf's actually says this. Their deposition testimonies state that there was an initial agreement as to two parcels, but that Yusuf agreed to change this to one. Yusuf April 2, 2014 Depo, 78:9-18; 78:18-79:18; Mohammed Hamed April 1, 2014 Depo; 148:1-4; 148:24-149:1.

2. As part of Hamed's efforts to appease Yusuf following his discovery of this significant misappropriation of partnership funds, Hamed agreed to relinquish his interests to two Partnership properties: to wit, 1) one located in the district of Tabarbour in Jordan, and 2) property located in Tutu, St. Thomas including both a 9.3 acre tract titled in Plessen and the Tutu Half-Acre (titled, at the time, in United) so that Yusuf would then own these properties separate and apart from the Partnership and Yusuf would not pursue his claims against Hamed for the \$2,000,000 misappropriation. See **Exhibit A**-Yusuf April 2, 2014 Depo, 78:9-18; 78:18-79:18; **Exhibit B**-Mohammed Hamed April 1, 2014 Depo; 148:1-4; 148:24-149:1; **Exhibit G**-Yusuf's Supplemental Discovery Responses, p.7-8 with Verification; **Exhibit D**-English Translation of Agreement as to Jordanian property; **Exhibit F**-Third Amended Complaint in *Hamed v. Yusuf*, Civil SX-12-CV-377 as an admission against Hamed's interest as to the existence of his agreement to relinquish his interest in partnership property to Yusuf following his accusations of misappropriation and Hamed's pursuit of affirmative relief based upon that agreement.

**Hamed Response:**

This isn't a statement of fact, it is a whole argument. Thus, Hamed incorporates his entire argument in counter-opposition. More particularly,

Fathi Yusuf's deposition of April 2, 2014, provides the following at 77-79. **Exhibit 27.**

Q. [By Joel Holt] You know, I asked a question, but I asked it wrong, but didn't there come a time when you and Mohammad Hamed sat down within the last year and a half and tried to resolve things by—he talked about it a little bit in his deposition about the giving of properties and things of that nature. Do you recall that?

A. [By Fathi Yusuf] Much more than a year and a half.

Q. Can you tell me about that?

A. Can you come up with question, or you want to come up with a story?

Q. I can—I actually like the way you tell the story, but I'll tell you what I've—hear—what I've heard, and then you can correct what I've heard. **That the two of you met to try to resolve all the differences** between you and yourself, the Hamed family, and Wally in particular.

A. Yes.

Q. And that he offered two or three properties, and **you agreed to take one** or something like that. And, you know, I never really quite -

A. I can comment on that.

Q. Okay. Please.

A. **I—we met, and after I tell him my story of what I know at that time, he say, What do you want? I say, I'll take two property for what I discover so far. He say, Which? I give him the description of the property, one in Jordan and one at Tutu Park. The one in Jordan, I pay one million two, approximate. The one at Tutu Park, I paid 1 million for it. 1,000,350, I believe. It's two pieces at Tutu Park, but we call it one piece. One-half an acre as an entrance, and 9.31 as the major piece of property. **He say, You can have it.** And after they say it, the man come up front after I tell him my story, and he was very generous to say, You can have it. And we kept talking, as a family. After all, we are family, as you mentioned over and over in your correspondence. We are family at that time, and we have a very high respect for each other, even though, up to now we still have high respect to each other, **and I told him, No, one is enough.****

Fathi admitted that by the end of the only in-person negotiation with Mohammad, he agreed to a settlement with just the Jordanian parcel, stating "one is enough." He then went on to describe what happened later with Wally. *Id.*

[*Id.* begin page 79] So I went to the store, I take a look, and I analyze the bank statement of what he was saying. I say, Man, after that, this man would not even tell me the truth, unfortunate? **So immediately I told Wally, Do me a favor, Wally. You was present. Go back to your father and tell him, No, I wanted the two piece of property.** That's the same day. Not even, as soon as we get to the store, it take me about half an hour to take a look of what he was talking about. Unfortunate, I have found it's impossible what he was talking about, it could be true. And I say, Come on, man. You know? **And—and he went home that night. He told his father. The next**

**day he come to work, I say, Did you tell your father? He said, Yes. I said, Fine. That's it.**

Q. Okay. You done?

A. Done.

In 2014, Yusuf testified in deposition that there was an initial agreement for one parcel in the face-to-face meeting. The meeting then ended. He testified he subsequently asked Wally to 'tell' his father about an additional demand. Wally verified that he did 'tell his father.' Yusuf never states the renegotiation was accepted or that it displaced the agreement the day before. To the contrary, all that we have on this is the writing Yusuf calls the "Agreement"—which involves just the one parcel in Jordan. *Id.*

Mohammad Hamed's deposition testimony about the identical settlement discussion and writing, which Yusuf attended two days before his own testimony, is 99% in agreement with Yusuf's rendition. **Exhibit 28.**

Q. (Mr. Hodges) Mr. Hamed, given the 25-plus years that your—you and Mr. Yusuf have—have worked together in the store, why haven't you taken the time to make sure you understand what the facts are with respect to this

\$2.7 million dispute?

MR. HARTMANN: Object as to form. Object, argumentative.

A. (Speaking in Arabic.) Work, work, work, work, day and night.

THE INTERPRETER: Okay. I can only translate or interpret what he said. He's saying—he said that they come from the same area, they are farmers, and that, you know, he was responsible for bringing them here. When they arrived here, they came to his home. He welcomed them, and—and helped them out, and—and over the years, he established a [begin page 138] business, a grocery business, and when he made some money, here came a time when—when Mr. Fathi Yusuf was going to build a shopping center. It's a long story, and that, you now, most of their time has been working, working, and here's really—there hasn't been a time that they could sit and talk.

Q. (Mr. Hodges) In the past two years, isn't that right?

A. (Speaking in Arabic.) Okay. Go ahead.

THE INTERPRETER: He said, I begged him to sit and—and—and—so we can finish this, and in Jordan, we—we—we, in my house, we met, and I was giving him—(speaking in Arabic). **He asked for two pieces of --**

A. Just one I want.

THE INTERPRETER: —he had asked for two pieces of property in Jordan. He told him, I'd sign for—for them, no problem. **Later**, he came—meaning Mr. Fathi Yusuf—and told him, You've kicked me in my stomach. It's a term of, in other words, **he was willing to accept, as I understand, one piece of property instead of two.** (Speaking in Arabic.) **Next day, he came back and asked for** the other piece of property.

In a Yusuf answer to an interrogatory given is another case, with other counsel (prior to the 2014 depositions here) Yusuf told virtually the same story—except for the

ending. In Yusuf's ending that time, both Wally and Mohammad Hamed expressly and specifically refused any renegotiated agreement as to the Tutu Parcel and any additional parcels—and expressly, contemporaneously, refused to transfer the Tutu half-acre as part of some 'settlement.'

When Responding Party asked Waleed Hamed to proceed with the transfer of the Tutu Park property, it is at this point, several months later, that Plaintiff Waleed "Wally" Hamed and Plaintiff Mohammed Hamed refused to transfer not only the second property [Tutu], but also the third property **requested** as a set-off for the unauthorized transactions. (Emphasis added.)

*Supra*. Exhibit 25, *Defendant Fathi Yusuf's Answers to Plaintiff Waleed "Wally" Hamed's First Set of Interrogatories, Hamed et al. v. Yusuf, SX-12-CIV-377* at page 9 of 50.

3. The partners ultimately maintained their agreement to resolve only the issue of the \$2,000,000 misappropriation with Hamed's relinquishment of his interests to the two properties; i.e. the Jordanian property and the collective Tutu property, including both the 9.3 acre tract and the Tutu Half-Acre. See **Exhibit A**-Yusuf April 2, 2014 Depo; 78:18–79:18; **Exhibit B**-Mohammed Hamed April 1, 2014 Depo; 148:1-4; 148:24-149:1; **Exhibit G**-Yusuf's Supplemental Discovery Responses, p.7-8 with Verification.

### Hamed Response:

Again, this is an entire argument. Moreover, it simply repeats the prior "fact." Therefore, Hamed incorporates his entire argument in counter-opposition. More particularly,

Fathi Yusuf's deposition of April 2, 2014, provides the following at 77-79. **Exhibit 27**.

Q. [By Joel Holt] You know, I asked a question, but I asked it wrong, but didn't there come a time when you and Mohammad Hamed sat down within the last year and a half and tried to resolve things by—he talked about it a little bit in his deposition about the giving of properties and things of that nature. Do you recall that?

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Q. I can—I actually like the way you tell the story, but I'll tell you what I've—hear, and then you can correct what I've heard. **That the two of you met to try to resolve all the differences** between you and yourself, the Hamed family, and Wally in particular.

**A. Yes.**

Q. And that he offered two or three properties, and **you agreed to take one** or something like that. And, you know, I never really quite -

A. I can comment on that.

Q. Okay. Please.

**A. I—we met, and after I tell him my story of what I know at that time, he say, **What do you want? I say, I'll take two property for what I discover so far. He say, Which? I give him the description of the property, one in Jordan and one at Tutu Park.** The one in Jordan, I pay one million two, approximate. The one at Tutu Park, I paid 1 million for it. 1,000,350, I believe. It's two pieces at Tutu Park, but we call it one piece. One-half an acre as an entrance, and 9.31 as the major piece of property. **He say, You can have it.** And after they say it, the man come up front after I tell him my story, and he was very generous to say, You can have it. And we kept talking, as a family. After all, we are family, as you mentioned over and over in your correspondence. We are family at that time, and we have a very high respect for each other, even though, up to now we still have high respect to each other, **and I told him, No, one is enough.****

Thus, Fathi admitted that by the end of the only in-person negotiation with Mohammad, he agreed to a settlement with just the Jordanian parcel, stating "one is enough." He then went on to describe what happened later with Wally. *Id.*

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Q. Okay. You done?

A. Done.

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A. I can comment on that.

Q. Okay. Please.

A. **I—we met, and after I tell him my story of what I know at that time, he say, What do you want? I say, I'll take two property for what I discover so far. He say, Which? I give him the description of the property, one in Jordan and one at Tutu Park. The one in Jordan, I pay one million two, approximate. The one at Tutu Park, I paid 1 million for it. 1,000,350, I believe. It's two pieces at Tutu Park, but we call it one piece. One-half an acre as an entrance, and 9.31 as the major piece of property. **He say, You can have it.** And after they say it, the man come up front after I tell him my story, and he was very generous to say, You can have it. And we kept talking, as a family. After all, we are family, as you mentioned over and over in your correspondence. We are family at that time, and we have a very high respect for each other, even though, up to now we still have high respect to each other, **and I told him, No, one is enough.****



Thus, Fathi admitted that by the end of the only in-person negotiation with Mohammad, he agreed to a settlement with just the Jordanian parcel, stating "one is enough." He then went on to describe what happened later with Wally. *Id.*

[*Id.* begin page 79] So I went to the store, I take a look, and I analyze the bank statement of what he was saying. I say, Man, after that, this man would not even tell me the truth, unfortunate? **So immediately I told Wally, Do me a favor, Wally. You was present. Go back to your father and tell him, No, I wanted the two piece of property.** That's the same day. Not even, as soon as we get to the store, it take me about half an hour to take a look of what he was talking about. Unfortunate, I have found it's impossible what he was talking about, it could be true. And I say, Come on, man. You know? **And—and he went home that night. He told his father. The next day he come to work, I say, Did you tell your father? He said, Yes. I said, Fine. That's it.**

Q. Okay. You done?

A. Done.

Thus, in 2014, Yusuf testified in deposition that there was an initial agreement for one parcel in the face-to-face meeting. The meeting then ended. He testified he subsequently asked Wally to 'tell' his father about an additional demand. Wally verified that he did 'tell his father.' Yusuf never states the renegotiation was accepted or that it displaced the agreement the day before. To the contrary, all that we have on this is the writing Yusuf calls the "Agreement"—which involves just the one parcel in Jordan. *Id.*

Mohammad Hamed's deposition testimony about the identical settlement discussion and writing, which Yusuf attended two days before his own testimony, is 99% in agreement with Yusuf's rendition. **Exhibit 28.**

Q. (Mr. Hodges) Mr. Hamed, given the 25-plus years that your—you and Mr. Yusuf have—have worked together in the store, why haven't you taken the time to make sure you understand what the facts are with respect to this

\$2.7 million dispute?

MR. HARTMANN: Object as to form. Object, argumentative.

A. (Speaking in Arabic.) Work, work, work, work, day and night.

THE INTERPRETER: Okay. I can only translate or interpret what he said. He's saying—he said that they come from the same area, they are farmers, and that, you know, he was responsible for bringing them here. When they arrived here, they came to his home. He welcomed them, and—and helped them out, and—and over the years, he established a [begin page 138] business, a grocery business, and when he made some money, here came a time when—when Mr. Fathi Yusuf was going to build a shopping center. It's a long story, and that, you now, most of their time has been working, working, and here's really—there hasn't been a time that they could sit and talk.

Q. (Mr. Hodges) In the past two years, isn't that right?

A. (Speaking in Arabic.) Okay. Go ahead.

THE INTERPRETER: He said, I begged him to sit and—and—and—so we can finish this, and in Jordan, we—we—we, in my house, we met, and I was giving him—(speaking in Arabic). **He asked for two pieces of --**

A. **Just one I want.**

THE INTERPRETER: —he had asked for two pieces of property *in Jordan*. He told him, I'd sign for—for them, no problem. **Later**, he came—meaning Mr. Fathi Yusuf—and told him, You've kicked me in my stomach. It's a term of, in other words, **he was willing to accept, as I understand, one piece of property instead of two.** (Speaking in Arabic.) **Next day, he came back and asked for** the other piece of property.

In a Yusuf answer to an interrogatory given is another case, with other counsel (prior to the 2014 depositions here) Yusuf told virtually the same story—**except for the ending**. In Yusuf's ending that time, both Wally and Mohammad Hamed expressly and specifically refused any renegotiated agreement as to the Tutu Parcel and any additional parcels—and expressly, contemporaneously, refused to transfer the Tutu half-acre as part of some 'settlement.'

When Responding Party asked Waleed Hamed to proceed with the transfer of the Tutu Park property, it is at this point, several months later, that Plaintiff Waleed "Wally" Hamed and Plaintiff Mohammed Hamed refused to transfer not only the second property [Tutu], but also the third property **requested** as a set-off for the unauthorized transactions. (Emphasis added.)

*Supra*. Exhibit 25, *Defendant Fathi Yusuf's Answers to Plaintiff Waleed "Wally" Hamed's First Set of Interrogatories, Hamed et al. v. Yusuf, SX-12-CIV-377* at page 9 of 50.

4. **The partners each engaged in performance of the agreement with Hamed transferring the Jordanian property** and Yusuf not seeking to collect or pursue a claim against Hamed for the \$2,000,000 misappropriation. See **Exhibit C**-Yusuf's Initial Accounting Claims, p. 13-14 and Exhibit O thereto; **Exhibit D**-English Translation of Agreement as to Jordanian Property; **Exhibit G**-Yusuf's Supplemental Responses to Hamed's Discovery, January 15, 2019, p. 7-8 with Verification; **Exhibit F**-Third Amended Complaint in the 377 Case.

#### **Hamed Response:**

Hamed admits that he did transfer the one parcel in Jordan, which did constitute full performance by written agreement..

5. The parties' partial performance demonstrates assent to and the existence of the agreement in 2011 between the partners for Hamed to relinquish his interests in the Tutu Half-Acre along with the 9.3 acre tract in Tutu and the Jordanian property,

which changes the ownership of the Tutu Half-Acre as of 2011 from a partnership asset to an asset of Yusuf's, owned by United, as a Yusuf entity separate and apart from the Partnership. See **Exhibits A thru G**.

**Hamed Response:**

This is a statement of law regarding the contractual theory of partial performance. To the extent it implies that Hamed performed on a broader agreement than the written Agreement, or as to more than the one parcel he did transfer, he demurs. Partial performance as to a written agreement that makes no mention of any other parcels is not a real thing.

6. After this agreement in 2011, suit was filed in September of 2012 and eventual dissolution of the Partnership proceeded thereafter. See **Exhibit I**-Complaint filed September 17, 2012.

**Hamed Response:**

Hamed agrees that "suit was filed in September of 2012 and eventual dissolution of the Partnership proceeded thereafter." He demurs as to the predicate statement as to a 2011 agreement for the reasons set forth above.

7. At the time of the dissolution of the Partnership, the Tutu Half-Acre was not a partnership asset but rather was an asset of Yusuf, owned separately and independently from the Partnership. See **Exhibits A thru G and I**.

**Hamed Response:**

RUPA Section 204(c) states that property purchased with Partnership is presumed to be Partnership property. Yusuf can seek to overcome that presumption. But until the Master rules that it is not Partnership property, RUPA controls its disposition. Thus, this is not a statement of fact, but rather a misstatement of law. To the extent that it tries to be a statement of fact, Hamed demurs based on section 204(c).